



402706

LEGISLATIVE ACTION

Senate

.

House

.

.

Floor: WD/2R

.

03/06/2024 10:14 AM

.

.

---

Senator Boyd moved the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Effective upon becoming a law, paragraph (aa) of  
subsection (6) of section 627.351, Florida Statutes, is amended  
to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(aa) Except as otherwise provided in this paragraph, the  
corporation shall require the securing and maintaining of flood



12 insurance as a condition of coverage of a personal lines  
13 residential risk. The insured or applicant must execute a form  
14 approved by the office affirming that flood insurance is not  
15 provided by the corporation and that if flood insurance is not  
16 secured by the applicant or insured from an insurer other than  
17 the corporation and in addition to coverage by the corporation,  
18 the risk will not be eligible for coverage by the corporation.  
19 The corporation may deny coverage of a personal lines  
20 residential risk to an applicant or insured who refuses to  
21 secure and maintain flood insurance. The requirement to purchase  
22 flood insurance shall be implemented as follows:

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

26 a. January 1, 2024, for a structure that has a dwelling  
27 replacement cost of \$600,000 or more.

28 b. January 1, 2025, for a structure that has a dwelling  
29 replacement cost of \$500,000 or more.

30 c. January 1, 2026, for a structure that has a dwelling  
31 replacement cost of \$400,000 or more.

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

34 2. All personal lines residential policyholders whose  
35 property insured by the corporation is located within the  
36 special flood hazard area defined by the Federal Emergency  
37 Management Agency must have flood coverage in place:

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



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

43           3. Policyholders are not required to purchase flood  
44 insurance as a condition for maintaining the following policies  
45 issued by the corporation:

46           a. Policies that do not provide coverage for the peril of  
47 wind.

48           b. Policies that provide coverage under a condominium unit  
49 owners form.

50

51 The flood insurance required under this paragraph must meet, at  
52 a minimum, the dwelling coverage available from the National  
53 Flood Insurance Program or the requirements of ~~subparagraphs~~ s.  
54 627.715(1)(a)1., 2., and 3.

55           Section 2. Present subsection (7) of section 627.351,  
56 Florida Statutes, is redesignated as subsection (8), a new  
57 subsection (7) is added to that section, paragraph (nn) is added  
58 to subsection (6) of that section, and paragraph (b) of  
59 subsection (2) and paragraphs (a), (b), (c), (e), (o), (p), (q),  
60 (v), (w), (x), (z), and (ii) of subsection (6) of that section  
61 are amended, to read:

62           627.351 Insurance risk apportionment plans.—

63           (2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

64           (b) The department shall require all insurers holding a  
65 certificate of authority to transact property insurance on a  
66 direct basis in this state, other than joint underwriting  
67 associations and other entities formed pursuant to this section,  
68 to provide windstorm coverage to applicants from areas  
69 determined to be eligible pursuant to paragraph (c) who in good



70 faith are entitled to, but are unable to procure, such coverage  
71 through ordinary means; or it shall adopt a reasonable plan or  
72 plans for the equitable apportionment or sharing among such  
73 insurers of windstorm coverage, which may include formation of  
74 an association for this purpose. As used in this subsection, the  
75 term "property insurance" means insurance on real or personal  
76 property, as defined in s. 624.604, including insurance for  
77 fire, industrial fire, allied lines, farmowners multiperil,  
78 homeowners multiperil, commercial multiperil, and mobile homes,  
79 and including liability coverages on all such insurance, but  
80 excluding inland marine as defined in s. 624.607(3) and  
81 excluding vehicle insurance as defined in s. 624.605(1)(a) other  
82 than insurance on mobile homes used as permanent dwellings. The  
83 department shall adopt rules that provide a formula for the  
84 recovery and repayment of any deferred assessments.

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

95 2.a.(I) All insurers required to be members of such  
96 association shall participate in its writings, expenses, and  
97 losses. Surplus of the association shall be retained for the  
98 payment of claims and shall not be distributed to the member



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

123 (II) Effective July 1, 2002, the association shall operate  
124 subject to the supervision and approval of a board of governors  
125 who are the same individuals that have been appointed by the  
126 Treasurer to serve on the board of governors of the Citizens  
127 Property Insurance Corporation.



128 (III) The plan of operation shall provide a formula whereby  
129 a company voluntarily providing windstorm coverage in affected  
130 areas will be relieved wholly or partially from apportionment of  
131 a regular assessment pursuant to sub-sub-subparagraph d.(I) or  
132 sub-sub-subparagraph d.(II).

133 (IV) A company which is a member of a group of companies  
134 under common management may elect to have its credits applied on  
135 a group basis, and any company or group may elect to have its  
136 credits applied to any other company or group.

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

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



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

173       b. Assessments to pay deficits in the association under  
174 this subparagraph shall be included as an appropriate factor in  
175 the making of rates as provided in s. 627.3512.

176       c. The Legislature finds that the potential for unlimited  
177 deficit assessments under this subparagraph may induce insurers  
178 to attempt to reduce their writings in the voluntary market, and  
179 that such actions would worsen the availability problems that  
180 the association was created to remedy. It is the intent of the  
181 Legislature that insurers remain fully responsible for paying  
182 regular assessments and collecting emergency assessments for any  
183 deficits of the association; however, it is also the intent of  
184 the Legislature to provide a means by which assessment  
185 liabilities may be amortized over a period of years.



402706

186           d.(I) When the deficit incurred in a particular calendar  
187 year is 10 percent or less 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 deficit.

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

201           (III) Upon a determination by the board of directors that a  
202 deficit exceeds the amount that will be recovered through  
203 regular assessments on member insurers, pursuant to sub-sub-  
204 subparagraph (I) or sub-sub-subparagraph (II), the board shall  
205 levy, after verification by the department, emergency  
206 assessments to be collected by member insurers and by  
207 underwriting associations created pursuant to this section which  
208 write property insurance, upon issuance or renewal of property  
209 insurance policies other than National Flood Insurance policies  
210 in the year or years following levy of the regular assessments.  
211 The amount of the emergency assessment collected in a particular  
212 year shall be a uniform percentage of that year's direct written  
213 premium for property insurance for all member insurers and  
214 underwriting associations, excluding National Flood Insurance





402706

215 policy premiums, as annually determined by the board and  
216 verified by the department. The department shall verify the  
217 arithmetic calculations involved in the board's determination  
218 within 30 days after receipt of the information on which the  
219 determination was based. Notwithstanding any other provision of  
220 law, each member insurer and each underwriting association  
221 created pursuant to this section shall collect emergency  
222 assessments from its policyholders without such obligation being  
223 affected by any credit, limitation, exemption, or deferment. The  
224 emergency assessments so collected shall be transferred directly  
225 to the association on a periodic basis as determined by the  
226 association. The aggregate amount of emergency assessments  
227 levied under this sub-sub-subparagraph in any calendar year may  
228 not exceed the greater of 10 percent of the amount needed to  
229 cover the original deficit, plus interest, fees, commissions,  
230 required reserves, and other costs associated with financing of  
231 the original deficit, or 10 percent of the aggregate statewide  
232 direct written premium for property insurance written by member  
233 insurers and underwriting associations for the prior year, plus  
234 interest, fees, commissions, required reserves, and other costs  
235 associated with financing the original deficit. The board may  
236 pledge the proceeds of the emergency assessments under this sub-  
237 sub-subparagraph as the source of revenue for bonds, to retire  
238 any other debt incurred as a result of the deficit or events  
239 giving rise to the deficit, or in any other way that the board  
240 determines will efficiently recover the deficit. The emergency  
241 assessments under this sub-sub-subparagraph shall continue as  
242 long as any bonds issued or other indebtedness incurred with  
243 respect to a deficit for which the assessment was imposed remain



402706

244 outstanding, unless adequate provision has been made for the  
245 payment of such bonds or other indebtedness pursuant to the  
246 document governing such bonds or other indebtedness. Emergency  
247 assessments collected under this sub-sub-subparagraph are not  
248 part of an insurer's rates, are not premium, and are not subject  
249 to premium tax, fees, or commissions; however, failure to pay  
250 the emergency assessment shall be treated as failure to pay  
251 premium.

252 (IV) Each member insurer's share of the total regular  
253 assessments under sub-sub-subparagraph (I) or sub-sub-  
254 subparagraph (II) shall be in the proportion that the insurer's  
255 net direct premium for property insurance in this state, for the  
256 year preceding the assessment bears to the aggregate statewide  
257 net direct premium for property insurance of all member  
258 insurers, as reduced by any credits for voluntary writings for  
259 that year.

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



273 shall be treated as failure to pay premium.

274 e. The governing body of any unit of local government, any  
275 residents of which are insured under the plan, may issue bonds  
276 as defined in s. 125.013 or s. 166.101 to fund an assistance  
277 program, in conjunction with the association, for the purpose of  
278 defraying deficits of the association. In order to avoid  
279 needless and indiscriminate proliferation, duplication, and  
280 fragmentation of such assistance programs, any unit of local  
281 government, any residents of which are insured by the  
282 association, may provide for the payment of losses, regardless  
283 of whether or not the losses occurred within or outside of the  
284 territorial jurisdiction of the local government. Revenue bonds  
285 may not be issued until validated pursuant to chapter 75, unless  
286 a state of emergency is declared by executive order or  
287 proclamation of the Governor pursuant to s. 252.36 making such  
288 findings as are necessary to determine that it is in the best  
289 interests of, and necessary for, the protection of the public  
290 health, safety, and general welfare of residents of this state  
291 and the protection and preservation of the economic stability of  
292 insurers operating in this state, and declaring it an essential  
293 public purpose to permit certain municipalities or counties to  
294 issue bonds as will provide relief to claimants and  
295 policyholders of the association and insurers responsible for  
296 apportionment of plan losses. Any such unit of local government  
297 may enter into such contracts with the association and with any  
298 other entity created pursuant to this subsection as are  
299 necessary to carry out this paragraph. Any bonds issued under  
300 this sub-subparagraph shall be payable from and secured by  
301 moneys received by the association from assessments under this



402706

302 subparagraph, and assigned and pledged to or on behalf of the  
303 unit of local government for the benefit of the holders of such  
304 bonds. The funds, credit, property, and taxing power of the  
305 state or of the unit of local government shall not be pledged  
306 for the payment of such bonds. If any of the bonds remain unsold  
307 60 days after issuance, the department shall require all  
308 insurers subject to assessment to purchase the bonds, which  
309 shall be treated as admitted assets; each insurer shall be  
310 required to purchase that percentage of the unsold portion of  
311 the bond issue that equals the insurer's relative share of  
312 assessment liability under this subsection. An insurer shall not  
313 be required to purchase the bonds to the extent that the  
314 department determines that the purchase would endanger or impair  
315 the solvency of the insurer. The authority granted by this sub-  
316 subparagraph is additional to any bonding authority granted by  
317 subparagraph 6.

318 3. The plan shall also provide that any member with a  
319 surplus as to policyholders of \$25 million or less writing 25  
320 percent or more of its total countrywide property insurance  
321 premiums in this state may petition the department, within the  
322 first 90 days of each calendar year, to qualify as a limited  
323 apportionment company. The apportionment of such a member  
324 company in any calendar year for which it is qualified shall not  
325 exceed its gross participation, which shall not be affected by  
326 the formula for voluntary writings. In no event shall a limited  
327 apportionment company be required to participate in any  
328 apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I)  
329 or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds  
330 \$50 million after payment of available plan funds in any



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

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

353 5.a. The plan of operation may include deductibles and  
354 rules for classification of risks and rate modifications  
355 consistent with the objective of providing and maintaining funds  
356 sufficient to pay catastrophe losses.

357 b. It is the intent of the Legislature that the rates for  
358 coverage provided by the association be actuarially sound and  
359 not competitive with approved rates charged in the admitted



402706

360 voluntary market such that the association functions as a  
361 residual market mechanism to provide insurance only when the  
362 insurance cannot be procured in the voluntary market. The plan  
363 of operation shall provide a mechanism to assure that, beginning  
364 no later than January 1, 1999, the rates charged by the  
365 association for each line of business are reflective of approved  
366 rates in the voluntary market for hurricane coverage for each  
367 line of business in the various areas eligible for association  
368 coverage.

369 c. The association shall provide for windstorm coverage on  
370 residential properties in limits up to \$10 million for  
371 commercial lines residential risks and up to \$1 million for  
372 personal lines residential risks. If coverage with the  
373 association is sought for a residential risk valued in excess of  
374 these limits, coverage shall be available to the risk up to the  
375 replacement cost or actual cash value of the property, at the  
376 option of the insured, if coverage for the risk cannot be  
377 located in the authorized market. The association must accept a  
378 commercial lines residential risk with limits above \$10 million  
379 or a personal lines residential risk with limits above \$1  
380 million if coverage is not available in the authorized market.  
381 The association may write coverage above the limits specified in  
382 this subparagraph with or without facultative or other  
383 reinsurance coverage, as the association determines appropriate.

384 d. The plan of operation must provide objective criteria  
385 and procedures, approved by the department, to be uniformly  
386 applied for all applicants in determining whether an individual  
387 risk is so hazardous as to be uninsurable. In making this  
388 determination and in establishing the criteria and procedures,



389 the following shall be considered:

390 (I) Whether the likelihood of a loss for the individual  
391 risk is substantially higher than for other risks of the same  
392 class; and

393 (II) Whether the uncertainty associated with the individual  
394 risk is such that an appropriate premium cannot be determined.

395

396 The acceptance or rejection of a risk by the association  
397 pursuant to such criteria and procedures must be construed as  
398 the private placement of insurance, and the provisions of  
399 chapter 120 do not apply.

400 e. If the risk accepts an offer of coverage through the  
401 market assistance program or through a mechanism established by  
402 the association, either before the policy is issued by the  
403 association or during the first 30 days of coverage by the  
404 association, and the producing agent who submitted the  
405 application to the association is not currently appointed by the  
406 insurer, the insurer shall:

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

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

417



402706

418 If the producing agent is unwilling or unable to accept  
419 appointment, the new insurer shall pay the agent in accordance  
420 with sub-sub-subparagraph (I). Subject to the provisions of s.  
421 627.3517, the policies issued by the association must provide  
422 that if the association obtains an offer from an authorized  
423 insurer to cover the risk at its approved rates under either a  
424 standard policy including wind coverage or, if consistent with  
425 the insurer's underwriting rules as filed with the department, a  
426 basic policy including wind coverage, the risk is no longer  
427 eligible for coverage through the association. Upon termination  
428 of eligibility, the association shall provide written notice to  
429 the policyholder and agent of record stating that the  
430 association policy must be canceled as of 60 days after the date  
431 of the notice because of the offer of coverage from an  
432 authorized insurer. Other provisions of the insurance code  
433 relating to cancellation and notice of cancellation do not apply  
434 to actions under this sub-subparagraph.

435 f. When the association enters into a contractual agreement  
436 for a take-out plan, the producing agent of record of the  
437 association policy is entitled to retain any unearned commission  
438 on the policy, and the insurer shall:

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

444 (II) Offer to allow the producing agent of record of the  
445 association policy to continue servicing the policy for a period  
446 of not less than 1 year and offer to pay the agent the greater





402706

447 of the insurer's or the association's usual and customary  
448 commission for the type of policy written.

449  
450 If the producing agent is unwilling or unable to accept  
451 appointment, the new insurer shall pay the agent in accordance  
452 with sub-sub-subparagraph (I).

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

463         b. Any entity created under this subsection, or any entity  
464 formed for the purposes of this subsection, may sue and be sued,  
465 may borrow money; issue bonds, notes, or debt instruments;  
466 pledge or sell assessments, market equalization surcharges and  
467 other surcharges, rights, premiums, contractual rights,  
468 projected recoveries from the Florida Hurricane Catastrophe  
469 Fund, other reinsurance recoverables, and other assets as  
470 security for such bonds, notes, or debt instruments; enter into  
471 any contracts or agreements necessary or proper to accomplish  
472 such borrowings; and take other actions necessary to carry out  
473 the purposes of this subsection. The association may issue bonds  
474 or incur other indebtedness, or have bonds issued on its behalf  
475 by a unit of local government pursuant to subparagraph (6)(q)2.,



402706

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

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

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



402706

505 However, no commission will be paid on that portion of the  
506 premium which is in excess of the standard premium of that  
507 company.

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

524 9. Notwithstanding any other provision of law:

525 a. The pledge or sale of, the lien upon, and the security  
526 interest in any rights, revenues, or other assets of the  
527 association created or purported to be created pursuant to any  
528 financing documents to secure any bonds or other indebtedness of  
529 the association shall be and remain valid and enforceable,  
530 notwithstanding the commencement of and during the continuation  
531 of, and after, any rehabilitation, insolvency, liquidation,  
532 bankruptcy, receivership, conservatorship, reorganization, or  
533 similar proceeding against the association under the laws of



402706

534 this state or any other applicable laws.

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

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

551       d. As used in this subsection, the term "financing  
552 documents" means any agreement, instrument, or other document  
553 now existing or hereafter created evidencing any bonds or other  
554 indebtedness of the association or pursuant to which any such  
555 bonds or other indebtedness has been or may be issued and  
556 pursuant to which any rights, revenues, or other assets of the  
557 association are pledged or sold to secure the repayment of such  
558 bonds or indebtedness, together with the payment of interest on  
559 such bonds or such indebtedness, or the payment of any other  
560 obligation of the association related to such bonds or  
561 indebtedness.

562       e. Any such pledge or sale of assessments, revenues,



402706

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

579 f. There shall be no liability on the part of, and no cause  
580 of action of any nature shall arise against, any member insurer  
581 or its agents or employees, agents or employees of the  
582 association, members of the board of directors of the  
583 association, or the department or its representatives, for any  
584 action taken by them in the performance of their duties or  
585 responsibilities under this subsection. Such immunity does not  
586 apply to actions for breach of any contract or agreement  
587 pertaining to insurance, or any willful tort.

588 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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



592           1. The Legislature finds that private insurers are  
593 unwilling or unable to provide affordable property insurance  
594 coverage in this state to the extent sought and needed. The  
595 absence of affordable property insurance threatens the public  
596 health, safety, and welfare and likewise threatens the economic  
597 health of the state. The state therefore has a compelling public  
598 interest and a public purpose to assist in assuring that  
599 property in the state is insured and that it is insured at  
600 affordable rates so as to facilitate the remediation,  
601 reconstruction, and replacement of damaged or destroyed property  
602 in order to reduce or avoid the negative effects otherwise  
603 resulting to the public health, safety, and welfare, to the  
604 economy of the state, and to the revenues of the state and local  
605 governments which are needed to provide for the public welfare.  
606 It is necessary, therefore, to provide affordable property  
607 insurance to applicants who are in good faith entitled to  
608 procure insurance through the voluntary market but are unable to  
609 do so. The Legislature intends, therefore, that affordable  
610 property insurance be provided and that it continue to be  
611 provided, as long as necessary, through Citizens Property  
612 Insurance Corporation, a government entity that is an integral  
613 part of the state, and that is not a private insurance company.  
614 To that end, the corporation shall strive to increase the  
615 availability of affordable property insurance in this state,  
616 while achieving efficiencies and economies, and while providing  
617 service to policyholders, applicants, and agents which is no  
618 less than the quality generally provided in the voluntary  
619 market, for the achievement of the foregoing public purposes.  
620 Because it is essential for this government entity to have the



402706

621 maximum financial resources to pay claims following a  
622 catastrophic hurricane, it is the intent of the Legislature that  
623 the corporation continue to be an integral part of the state and  
624 that the income of the corporation be exempt from federal income  
625 taxation and that interest on the debt obligations issued by the  
626 corporation be exempt from federal income taxation.

627         2. The Residential Property and Casualty Joint Underwriting  
628 Association originally created by this statute shall be known as  
629 the Citizens Property Insurance Corporation. The corporation  
630 shall provide insurance for residential and commercial property,  
631 for applicants who are entitled, but, in good faith, are unable  
632 to procure insurance through the voluntary market. The  
633 corporation shall operate pursuant to a plan of operation  
634 approved by order of the Financial Services Commission. The plan  
635 is subject to continuous review by the commission. The  
636 commission may, by order, withdraw approval of all or part of a  
637 plan if the commission determines that conditions have changed  
638 since approval was granted and that the purposes of the plan  
639 require changes in the plan. For the purposes of this  
640 subsection, residential coverage includes both personal lines  
641 residential coverage, which consists of the type of coverage  
642 provided by homeowner, mobile home owner, dwelling, tenant,  
643 condominium unit owner, and similar policies; and commercial  
644 lines residential coverage, which consists of the type of  
645 coverage provided by condominium association, apartment  
646 building, and similar policies.

647         3. With respect to coverage for personal lines residential  
648 structures:

649         a. ~~Effective January 1, 2014, a structure that has a~~



402706

650 ~~dwelling replacement cost of \$1 million or more, or a single~~  
651 ~~condominium unit that has a combined dwelling and contents~~  
652 ~~replacement cost of \$1 million or more, is not eligible for~~  
653 ~~coverage by the corporation. Such dwellings insured by the~~  
654 ~~corporation on December 31, 2013, may continue to be covered by~~  
655 ~~the corporation until the end of the policy term. The office~~  
656 ~~shall approve the method used by the corporation for valuing the~~  
657 ~~dwelling replacement cost for the purposes of this subparagraph.~~  
658 ~~If a policyholder is insured by the corporation before being~~  
659 ~~determined to be ineligible pursuant to this subparagraph and~~  
660 ~~such policyholder files a lawsuit challenging the determination,~~  
661 ~~the policyholder may remain insured by the corporation until the~~  
662 ~~conclusion of the litigation.~~

663 ~~b. Effective January 1, 2015, a structure that has a~~  
664 ~~dwelling replacement cost of \$900,000 or more, or a single~~  
665 ~~condominium unit that has a combined dwelling and contents~~  
666 ~~replacement cost of \$900,000 or more, is not eligible for~~  
667 ~~coverage by the corporation. Such dwellings insured by the~~  
668 ~~corporation on December 31, 2014, may continue to be covered by~~  
669 ~~the corporation only until the end of the policy term.~~

670 ~~e. Effective January 1, 2016, a structure that has a~~  
671 ~~dwelling replacement cost of \$800,000 or more, or a single~~  
672 ~~condominium unit that has a combined dwelling and contents~~  
673 ~~replacement cost of \$800,000 or more, is not eligible for~~  
674 ~~coverage by the corporation. Such dwellings insured by the~~  
675 ~~corporation on December 31, 2015, may continue to be covered by~~  
676 ~~the corporation until the end of the policy term.~~

677 ~~d. Effective January 1, 2017, a structure that has a~~  
678 ~~dwelling replacement cost of \$700,000 or more, or a single~~





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

684 b. The requirements of sub-subparagraph a. ~~sub-~~  
685 ~~subparagraphs b. d.~~ do not apply in counties where the office  
686 determines there is not a reasonable degree of competition. In  
687 such counties a personal lines residential structure that has a  
688 dwelling replacement cost of less than \$1 million, or a single  
689 condominium unit that has a combined dwelling and contents  
690 replacement cost of less than \$1 million, is eligible for  
691 coverage by the corporation.

692 4. It is the intent of the Legislature that policyholders,  
693 applicants, and agents of the corporation receive service and  
694 treatment of the highest possible level but never less than that  
695 generally provided in the voluntary market. It is also intended  
696 that the corporation be held to service standards no less than  
697 those applied to insurers in the voluntary market by the office  
698 with respect to responsiveness, timeliness, customer courtesy,  
699 and overall dealings with policyholders, applicants, or agents  
700 of the corporation.

701 5.a. Effective January 1, 2009, a personal lines  
702 residential structure that is located in the "wind-borne debris  
703 region," as defined in s. 1609.2, International Building Code  
704 (2006), and that has an insured value on the structure of  
705 \$750,000 or more is not eligible for coverage by the corporation  
706 unless the structure has opening protections as required under  
707 the Florida Building Code for a newly constructed residential



402706

708 structure in that area. A residential structure is deemed to  
709 comply with this sub-subparagraph if it has shutters or opening  
710 protections on all openings and if such opening protections  
711 complied with the Florida Building Code at the time they were  
712 installed.

713 b. Any major structure, as defined in s. 161.54(6)(a), that  
714 is newly constructed, or rebuilt, repaired, restored, or  
715 remodeled to increase the total square footage of finished area  
716 by more than 25 percent, pursuant to a permit applied for after  
717 July 1, 2015, is not eligible for coverage by the corporation if  
718 the structure is seaward of the coastal construction control  
719 line established pursuant to s. 161.053 or is within the Coastal  
720 Barrier Resources System as designated by 16 U.S.C. ss. 3501-  
721 3510.

722 6. With respect to wind-only coverage for commercial lines  
723 residential condominiums, effective July 1, 2014, a condominium  
724 shall be deemed ineligible for coverage if 50 percent or more of  
725 the units are rented more than eight times in a calendar year  
726 for a rental agreement period of less than 30 days.

727 (b)1. All insurers authorized to write one or more subject  
728 lines of business in this state are subject to assessment by the  
729 corporation and, for the purposes of this subsection, are  
730 referred to collectively as "assessable insurers." Insurers  
731 writing one or more subject lines of business in this state  
732 pursuant to part VIII of chapter 626 are not assessable  
733 insurers; however, insureds who procure one or more subject  
734 lines of business in this state pursuant to part VIII of chapter  
735 626 are subject to assessment by the corporation and are  
736 referred to collectively as "assessable insureds." An insurer's



402706

737 assessment liability begins on the first day of the calendar  
738 year following the year in which the insurer was issued a  
739 certificate of authority to transact insurance for subject lines  
740 of business in this state and terminates 1 year after the end of  
741 the first calendar year during which the insurer no longer holds  
742 a certificate of authority to transact insurance for subject  
743 lines of business in this state.

744 ~~2.a.~~ All revenues, assets, liabilities, losses, and  
745 expenses of the corporation shall be maintained in the Citizens  
746 account. The Citizens account may provide ~~divided into three~~  
747 ~~separate accounts as follows:~~

748 ~~a.(I) A personal lines account for~~ Personal residential  
749 ~~policies that provide~~ issued by the corporation which provides  
750 comprehensive, multiperil coverage on risks that are not located  
751 in areas eligible for coverage by the Florida Windstorm  
752 Underwriting Association as those areas were defined on January  
753 1, 2002, and for policies that do not provide coverage for the  
754 peril of wind on risks that are located in such areas;

755 ~~b.(II) A commercial lines account for~~ Commercial  
756 residential and commercial nonresidential policies that provide  
757 ~~issued by the corporation which provides~~ coverage for basic  
758 property perils on risks that are not located in areas eligible  
759 for coverage by the Florida Windstorm Underwriting Association  
760 as those areas were defined on January 1, 2002, and for policies  
761 that do not provide coverage for the peril of wind on risks that  
762 are located in such areas; and

763 ~~c.(III) A coastal account for~~ Personal residential policies  
764 and commercial residential and commercial nonresidential  
765 property policies that provide ~~issued by the corporation which~~



402706

766 ~~provides~~ coverage for the peril of wind on risks that are  
767 located in areas eligible for coverage by the Florida Windstorm  
768 Underwriting Association as those areas were defined on January  
769 1, 2002. The corporation may offer policies that provide  
770 multiperil coverage and shall offer policies that provide  
771 coverage only for the peril of wind for risks located in areas  
772 eligible for coverage by the Florida Windstorm Underwriting  
773 Association, as those areas were defined on January 1, 2002 ~~in~~  
774 ~~the coastal account. Effective July 1, 2014,~~ The corporation may  
775 not offer ~~shall cease offering~~ new commercial residential  
776 policies providing multiperil coverage but ~~and~~ shall ~~instead~~  
777 continue to offer commercial residential wind-only policies, and  
778 may offer commercial residential policies excluding wind.  
779 However, the corporation may, ~~however,~~ continue to renew a  
780 commercial residential multiperil policy on a building that was  
781 ~~is~~ insured by the corporation on June 30, 2014, under a  
782 multiperil policy. In issuing multiperil coverage under this  
783 sub-subparagraph, the corporation may use its approved policy  
784 forms and rates for risks located in areas not eligible for  
785 coverage by the Florida Windstorm Underwriting Association, as  
786 those areas were defined on January 1, 2002, and for policies  
787 that do not provide coverage for the peril of wind on risks that  
788 are located in such areas ~~the personal lines account.~~ An  
789 applicant or insured who is eligible to purchase a multiperil  
790 policy from the corporation may purchase a multiperil policy  
791 from an authorized insurer without prejudice to the applicant's  
792 or insured's eligibility to prospectively purchase a policy that  
793 provides coverage only for the peril of wind from the  
794 corporation. An applicant or insured who is eligible for a



402706

795 corporation policy that provides coverage only for the peril of  
796 wind may elect to purchase or retain such policy and also  
797 purchase or retain coverage excluding wind from an authorized  
798 insurer without prejudice to the applicant's or insured's  
799 eligibility to prospectively purchase a policy that provides  
800 multiperil coverage from the corporation. The following  
801 policies, which provide coverage only for the peril of wind,  
802 must also include quota share primary insurance under  
803 subparagraph (c)2.:

804 (I) Personal residential policies and commercial  
805 residential and commercial nonresidential property policies that  
806 provide coverage for the peril of wind on risks that are located  
807 in areas eligible for coverage by the Florida Windstorm  
808 Underwriting Association, as those areas were defined on January  
809 1, 2002;

810 (II) Policies that provide multiperil coverage, if offered  
811 by the corporation, and policies that provide coverage only for  
812 the peril of wind for risks located in areas eligible for  
813 coverage by the Florida Windstorm Underwriting Association, as  
814 those areas were defined on January 1, 2002;

815 (III) Commercial residential wind-only policies;

816 (IV) Commercial residential policies excluding wind, if  
817 offered by the corporation; and

818 (V) Commercial residential multiperil policies on a  
819 building that was insured by the corporation on June 30, 2014 ~~It~~  
820 ~~is the goal of the Legislature that there be an overall average~~  
821 ~~savings of 10 percent or more for a policyholder who currently~~  
822 ~~has a wind-only policy with the corporation, and an ex-wind~~  
823 ~~policy with a voluntary insurer or the corporation, and who~~



402706

824 ~~obtains a multiperil policy from the corporation. It is the~~  
825 ~~intent of the Legislature that the offer of multiperil coverage~~  
826 ~~in the coastal account be made and implemented in a manner that~~  
827 ~~does not adversely affect the tax-exempt status of the~~  
828 ~~corporation or creditworthiness of or security for currently~~  
829 ~~outstanding financing obligations or credit facilities of the~~  
830 ~~coastal account, the personal lines account, or the commercial~~  
831 ~~lines account. The coastal account must also include quota share~~  
832 ~~primary insurance under subparagraph (c)2.~~

833

834 The area eligible for coverage with the corporation under this  
835 sub-subparagraph under the coastal account also includes the  
836 area within Port Canaveral, which is bordered on the south by  
837 the City of Cape Canaveral, bordered on the west by the Banana  
838 River, and bordered on the north by Federal Government property.

839 3. With respect to a deficit in the Citizens account:

840 a. Upon a determination by the board of governors that the  
841 Citizens account has a projected deficit, the board shall levy a  
842 Citizens policyholder surcharge against all policyholders of the  
843 corporation.

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

847 (II) The surcharge is payable upon cancellation or  
848 termination of the policy, upon renewal of the policy, or upon  
849 issuance of a new policy by the corporation within the first 12  
850 months after the date of the levy or the period of time  
851 necessary to fully collect the surcharge amount.

852 (III) The surcharge is not considered premium and is not



402706

853 subject to commissions, fees, or premium taxes. However, failure  
854 to pay the surcharge shall be treated as failure to pay premium.

855 ~~b. The three separate accounts must be maintained as long~~  
856 ~~as financing obligations entered into by the Florida Windstorm~~  
857 ~~Underwriting Association or Residential Property and Casualty~~  
858 ~~Joint Underwriting Association are outstanding, in accordance~~  
859 ~~with the terms of the corresponding financing documents. If no~~  
860 ~~such financing obligations remain outstanding or if the~~  
861 ~~financing documents allow for combining of accounts, the~~  
862 ~~corporation may consolidate the three separate accounts into a~~  
863 ~~new account, to be known as the Citizens account, for all~~  
864 ~~revenues, assets, liabilities, losses, and expenses of the~~  
865 ~~corporation. The Citizens account, if established by the~~  
866 ~~corporation, is authorized to provide coverage to the same~~  
867 ~~extent as provided under each of the three separate accounts.~~  
868 ~~The authority to provide coverage under the Citizens account is~~  
869 ~~set forth in subparagraph 4. Consistent with this subparagraph~~  
870 ~~and prudent investment policies that minimize the cost of~~  
871 ~~carrying debt, the board shall exercise its best efforts to~~  
872 ~~retire existing debt or obtain the approval of necessary parties~~  
873 ~~to amend the terms of existing debt, so as to structure the most~~  
874 ~~efficient plan for consolidating the three separate accounts~~  
875 ~~into a single account. Once the accounts are combined into one~~  
876 ~~account, this subparagraph and subparagraph 3. shall be replaced~~  
877 ~~in their entirety by subparagraphs 4. and 5.~~

878 ~~e. Creditors of the Residential Property and Casualty Joint~~  
879 ~~Underwriting Association and the accounts specified in sub-sub-~~  
880 ~~subparagraphs a. (I) and (II) may have a claim against, and~~  
881 ~~recourse to, those accounts and no claim against, or recourse~~



402706

882 ~~to, the account referred to in sub-sub-subparagraph a.(III).~~  
883 ~~Creditors of the Florida Windstorm Underwriting Association have~~  
884 ~~a claim against, and recourse to, the account referred to in~~  
885 ~~sub-sub-subparagraph a.(III) and no claim against, or recourse~~  
886 ~~to, the accounts referred to in sub-sub-subparagraphs a.(I) and~~  
887 ~~(II).~~

888 ~~d. Revenues, assets, liabilities, losses, and expenses not~~  
889 ~~attributable to particular accounts shall be prorated among the~~  
890 ~~accounts.~~

891 ~~e. The Legislature finds that the revenues of the~~  
892 ~~corporation are revenues that are necessary to meet the~~  
893 ~~requirements set forth in documents authorizing the issuance of~~  
894 ~~bonds under this subsection.~~

895 ~~f. The income of the corporation may not inure to the~~  
896 ~~benefit of any private person.~~

897 ~~3. With respect to a deficit in an account:~~

898 ~~a. After accounting for the Citizens policyholder surcharge~~  
899 ~~imposed under sub-subparagraph j., if the remaining projected~~  
900 ~~deficit incurred in the coastal account in a particular calendar~~  
901 ~~year:~~

902 ~~(I) Is not greater than 2 percent of the aggregate~~  
903 ~~statewide direct written premium for the subject lines of~~  
904 ~~business for the prior calendar year, the entire deficit shall~~  
905 ~~be recovered through regular assessments of assessable insurers~~  
906 ~~under paragraph (q) and assessable insureds.~~

907 ~~(II) Exceeds 2 percent of the aggregate statewide direct~~  
908 ~~written premium for the subject lines of business for the prior~~  
909 ~~calendar year, the corporation shall levy regular assessments on~~  
910 ~~assessable insurers under paragraph (q) and on assessable~~





402706

911 ~~insureds in an amount equal to the greater of 2 percent of the~~  
912 ~~projected deficit or 2 percent of the aggregate statewide direct~~  
913 ~~written premium for the subject lines of business for the prior~~  
914 ~~calendar year. Any remaining projected deficit shall be~~  
915 ~~recovered through emergency assessments under sub-subparagraph~~  
916 ~~e.~~

917 ~~b. Each assessable insurer's share of the amount being~~  
918 ~~assessed under sub-subparagraph a. must be in the proportion~~  
919 ~~that the assessable insurer's direct written premium for the~~  
920 ~~subject lines of business for the year preceding the assessment~~  
921 ~~bears to the aggregate statewide direct written premium for the~~  
922 ~~subject lines of business for that year. The assessment~~  
923 ~~percentage applicable to each assessable insured is the ratio of~~  
924 ~~the amount being assessed under sub-subparagraph a. to the~~  
925 ~~aggregate statewide direct written premium for the subject lines~~  
926 ~~of business for the prior year. Assessments levied by the~~  
927 ~~corporation on assessable insurers under sub-subparagraph a.~~  
928 ~~must be paid as required by the corporation's plan of operation~~  
929 ~~and paragraph (q). Assessments levied by the corporation on~~  
930 ~~assessable insureds under sub-subparagraph a. shall be collected~~  
931 ~~by the surplus lines agent at the time the surplus lines agent~~  
932 ~~collects the surplus lines tax required by s. 626.932, and paid~~  
933 ~~to the Florida Surplus Lines Service Office at the time the~~  
934 ~~surplus lines agent pays the surplus lines tax to that office.~~  
935 ~~Upon receipt of regular assessments from surplus lines agents,~~  
936 ~~the Florida Surplus Lines Service Office shall transfer the~~  
937 ~~assessments directly to the corporation as determined by the~~  
938 ~~corporation.~~

939 ~~e. The corporation may not levy regular assessments under~~



402706

940 ~~paragraph (g) pursuant to sub-subparagraph a. or sub-~~  
941 ~~subparagraph b. if the three separate accounts in sub-sub-~~  
942 ~~subparagraphs 2.a.(I)-(III) have been consolidated into the~~  
943 ~~Citizens account pursuant to sub-subparagraph 2.b. However, the~~  
944 ~~outstanding balance of any regular assessment levied by the~~  
945 ~~corporation before establishment of the Citizens account remains~~  
946 ~~payable to the corporation.~~

947 ~~b.d.~~ After accounting for the Citizens policyholder  
948 surcharge imposed under sub-subparagraph a. j., the remaining  
949 projected deficits in the Citizens ~~personal lines~~ account and in  
950 ~~the commercial lines account~~ in a particular calendar year shall  
951 be recovered through emergency assessments under sub-  
952 subparagraph c. e.

953 ~~c.e.~~ Upon a determination by the board of governors that a  
954 projected deficit in the Citizens ~~an~~ account exceeds the amount  
955 that is expected to be recovered through surcharges ~~regular~~  
956 ~~assessments under sub-subparagraph a., plus the amount that is~~  
957 ~~expected to be recovered through surcharges under sub-~~  
958 ~~subparagraph j.~~, the board, after verification by the office,  
959 shall levy emergency assessments for as many years as necessary  
960 to cover the deficits, to be collected by assessable insurers  
961 and the corporation and collected from assessable insureds upon  
962 issuance or renewal of policies for subject lines of business,  
963 excluding National Flood Insurance Program policies. The amount  
964 collected in a particular year must be a uniform percentage of  
965 that year's direct written premium for subject lines of business  
966 and the Citizens account ~~all accounts of the corporation,~~  
967 excluding National Flood Insurance Program policy premiums, as  
968 annually determined by the board and verified by the office. The



402706

969 office shall verify the arithmetic calculations involved in the  
970 board's determination within 30 days after receipt of the  
971 information on which the determination was based. The office  
972 shall notify assessable insurers and the Florida Surplus Lines  
973 Service Office of the date on which assessable insurers shall  
974 begin to collect and assessable insureds shall begin to pay such  
975 assessment. The date must be at least 90 days after the date the  
976 corporation levies emergency assessments pursuant to this sub-  
977 subparagraph. Notwithstanding any other ~~provision of~~ law, the  
978 corporation and each assessable insurer that writes subject  
979 lines of business shall collect emergency assessments from its  
980 policyholders without such obligation being affected by any  
981 credit, limitation, exemption, or deferment. Emergency  
982 assessments levied by the corporation on assessable insureds  
983 shall be collected by the surplus lines agent at the time the  
984 surplus lines agent collects the surplus lines tax required by  
985 s. 626.932 and paid to the Florida Surplus Lines Service Office  
986 at the time the surplus lines agent pays the surplus lines tax  
987 to that office. The emergency assessments collected shall be  
988 transferred directly to the corporation on a periodic basis as  
989 determined by the corporation and held by the corporation solely  
990 in the Citizens ~~applicable~~ account. The aggregate amount of  
991 emergency assessments levied for the Citizens ~~an~~ account in any  
992 calendar year may be less than but may not exceed the greater of  
993 10 percent of the amount needed to cover the deficit, plus  
994 interest, fees, commissions, required reserves, and other costs  
995 associated with financing the original deficit, or 10 percent of  
996 the aggregate statewide direct written premium for subject lines  
997 of business and the Citizens account ~~all accounts~~ of the



402706

998 corporation for the prior year, plus interest, fees,  
999 commissions, required reserves, and other costs associated with  
1000 financing the deficit.

1001 ~~d.f.~~ The corporation may pledge the proceeds of  
1002 assessments, projected recoveries from the Florida Hurricane  
1003 Catastrophe Fund, other insurance and reinsurance recoverables,  
1004 policyholder surcharges and other surcharges, and other funds  
1005 available to the corporation as the source of revenue for and to  
1006 secure bonds issued under paragraph (q), bonds or other  
1007 indebtedness issued under subparagraph (c)3., or lines of credit  
1008 or other financing mechanisms issued or created under this  
1009 subsection, or to retire any other debt incurred as a result of  
1010 deficits or events giving rise to deficits, or in any other way  
1011 that the board determines will efficiently recover such  
1012 deficits. The purpose of the lines of credit or other financing  
1013 mechanisms is to provide additional resources to assist the  
1014 corporation in covering claims and expenses attributable to a  
1015 catastrophe. As used in this subsection, the term "assessments"  
1016 includes emergency ~~regular~~ assessments under sub-subparagraph c.  
1017 ~~a. or subparagraph (q)1. and emergency assessments under sub-~~  
1018 ~~subparagraph e.~~ Emergency assessments collected under sub-  
1019 subparagraph c. ~~e.~~ are not part of an insurer's rates, are not  
1020 premium, and are not subject to premium tax, fees, or  
1021 commissions; however, failure to pay the emergency assessment  
1022 shall be treated as failure to pay premium. The emergency  
1023 assessments shall continue as long as any bonds issued or other  
1024 indebtedness incurred with respect to a deficit for which the  
1025 assessment was imposed remain outstanding, unless adequate  
1026 provision has been made for the payment of such bonds or other



1027 indebtedness pursuant to the documents governing such bonds or  
1028 indebtedness.

1029 ~~e.g.~~ As used in this subsection and for purposes of any  
1030 deficit incurred on or after January 25, 2007, the term "subject  
1031 lines of business" means insurance written by assessable  
1032 insurers or procured by assessable insureds for all property and  
1033 casualty lines of business in this state, but not including  
1034 workers' compensation or medical malpractice. As used in this  
1035 sub-subparagraph, the term "property and casualty lines of  
1036 business" includes all lines of business identified on Form 2,  
1037 Exhibit of Premiums and Losses, in the annual statement required  
1038 of authorized insurers under s. 624.424 and any rule adopted  
1039 under this section, except for those lines identified as  
1040 accident and health insurance and except for policies written  
1041 under the National Flood Insurance Program or the Federal Crop  
1042 Insurance Program. For purposes of this sub-subparagraph, the  
1043 term "workers' compensation" includes both workers' compensation  
1044 insurance and excess workers' compensation insurance.

1045 ~~f.h.~~ The Florida Surplus Lines Service Office shall  
1046 annually determine ~~annually~~ the aggregate statewide written  
1047 premium in subject lines of business procured by assessable  
1048 insureds and report that information to the corporation in a  
1049 form and at a time the corporation specifies to ensure that the  
1050 corporation can meet the requirements of this subsection and the  
1051 corporation's financing obligations.

1052 ~~g.i.~~ The Florida Surplus Lines Service Office shall verify  
1053 the proper application by surplus lines agents of assessment  
1054 percentages for ~~regular assessments and~~ emergency assessments  
1055 levied under this subparagraph on assessable insureds and assist



1056 the corporation in ensuring the accurate, timely collection and  
1057 payment of assessments by surplus lines agents as required by  
1058 the corporation.

1059 ~~j. Upon determination by the board of governors that an~~  
1060 ~~account has a projected deficit, the board shall levy a Citizens~~  
1061 ~~policyholder surcharge against all policyholders of the~~  
1062 ~~corporation.~~

1063 ~~(I) The surcharge shall be levied as a uniform percentage~~  
1064 ~~of the premium for the policy of up to 15 percent of such~~  
1065 ~~premium, which funds shall be used to offset the deficit.~~

1066 ~~(II) The surcharge is payable upon cancellation or~~  
1067 ~~termination of the policy, upon renewal of the policy, or upon~~  
1068 ~~issuance of a new policy by the corporation within the first 12~~  
1069 ~~months after the date of the levy or the period of time~~  
1070 ~~necessary to fully collect the surcharge amount.~~

1071 ~~(III) The corporation may not levy any regular assessments~~  
1072 ~~under paragraph (q) pursuant to sub-subparagraph a. or sub-~~  
1073 ~~subparagraph b. with respect to a particular year's deficit~~  
1074 ~~until the corporation has first levied the full amount of the~~  
1075 ~~surcharge authorized by this sub-subparagraph.~~

1076 ~~(IV) The surcharge is not considered premium and is not~~  
1077 ~~subject to commissions, fees, or premium taxes. However, failure~~  
1078 ~~to pay the surcharge shall be treated as failure to pay premium.~~

1079 h.k. If the amount of any assessments or surcharges  
1080 collected from corporation policyholders, assessable insurers or  
1081 their policyholders, or assessable insureds exceeds the amount  
1082 of the deficits, such excess amounts shall be remitted to and  
1083 retained by the corporation in a reserve to be used by the  
1084 corporation, as determined by the board of governors and



402706

1085 approved by the office, to pay claims or reduce any past,  
1086 present, or future plan-year deficits or to reduce outstanding  
1087 debt.

1088 ~~4. The Citizens account, if established by the corporation~~  
1089 ~~pursuant to sub-subparagraph 2.b., is authorized to provide:~~

1090 ~~a. Personal residential policies that provide~~  
1091 ~~comprehensive, multiperil coverage on risks that are not located~~  
1092 ~~in areas eligible for coverage by the Florida Windstorm~~  
1093 ~~Underwriting Association, as those areas were defined on January~~  
1094 ~~1, 2002, and for policies that do not provide coverage for the~~  
1095 ~~peril of wind on risks that are located in such areas;~~

1096 ~~b. Commercial residential and commercial nonresidential~~  
1097 ~~policies that provide coverage for basic property perils on~~  
1098 ~~risks that are not located in areas eligible for coverage by the~~  
1099 ~~Florida Windstorm Underwriting Association, as those areas were~~  
1100 ~~defined on January 1, 2002, and for policies that do not provide~~  
1101 ~~coverage for the peril of wind on risks that are located in such~~  
1102 ~~areas; and~~

1103 ~~e. Personal residential policies and commercial residential~~  
1104 ~~and commercial nonresidential property policies that provide~~  
1105 ~~coverage for the peril of wind on risks that are located in~~  
1106 ~~areas eligible for coverage by the Florida Windstorm~~  
1107 ~~Underwriting Association, as those areas were defined on January~~  
1108 ~~1, 2002. The corporation may offer policies that provide~~  
1109 ~~multiperil coverage and shall offer policies that provide~~  
1110 ~~coverage only for the peril of wind for risks located in areas~~  
1111 ~~eligible for coverage by the Florida Windstorm Underwriting~~  
1112 ~~Association, as those areas were defined on January 1, 2002. The~~  
1113 ~~corporation may not offer new commercial residential policies~~



402706

1114 ~~providing multiperil coverage, but shall continue to offer~~  
1115 ~~commercial residential wind only policies, and may offer~~  
1116 ~~commercial residential policies excluding wind. However, the~~  
1117 ~~corporation may continue to renew a commercial residential~~  
1118 ~~multiperil policy on a building that was insured by the~~  
1119 ~~corporation on June 30, 2014, under a multiperil policy. In~~  
1120 ~~issuing multiperil coverage under this sub-subparagraph, the~~  
1121 ~~corporation may use its approved policy forms and rates for~~  
1122 ~~risks located in areas not eligible for coverage by the Florida~~  
1123 ~~Windstorm Underwriting Association as those areas were defined~~  
1124 ~~on January 1, 2002, and for policies that do not provide~~  
1125 ~~coverage for the peril of wind on risks that are located in such~~  
1126 ~~areas. An applicant or insured who is eligible to purchase a~~  
1127 ~~multiperil policy from the corporation may purchase a multiperil~~  
1128 ~~policy from an authorized insurer without prejudice to the~~  
1129 ~~applicant's or insured's eligibility to prospectively purchase a~~  
1130 ~~policy that provides coverage only for the peril of wind from~~  
1131 ~~the corporation. An applicant or insured who is eligible for a~~  
1132 ~~corporation policy that provides coverage only for the peril of~~  
1133 ~~wind may elect to purchase or retain such policy and also~~  
1134 ~~purchase or retain coverage excluding wind from an authorized~~  
1135 ~~insurer without prejudice to the applicant's or insured's~~  
1136 ~~eligibility to prospectively purchase a policy that provides~~  
1137 ~~multiperil coverage from the corporation. The following~~  
1138 ~~policies, which provide coverage only for the peril of wind,~~  
1139 ~~must also include quota share primary insurance under~~  
1140 ~~subparagraph (c)2.: Personal residential policies and commercial~~  
1141 ~~residential and commercial nonresidential property policies that~~  
1142 ~~provide coverage for the peril of wind on risks that are located~~





402706

1143 ~~in areas eligible for coverage by the Florida Windstorm~~  
1144 ~~Underwriting Association, as those areas were defined on January~~  
1145 ~~1, 2002; policies that provide multiperil coverage, if offered~~  
1146 ~~by the corporation, and policies that provide coverage only for~~  
1147 ~~the peril of wind for risks located in areas eligible for~~  
1148 ~~coverage by the Florida Windstorm Underwriting Association, as~~  
1149 ~~those areas were defined on January 1, 2002; commercial~~  
1150 ~~residential wind-only policies; commercial residential policies~~  
1151 ~~excluding wind, if offered by the corporation; and commercial~~  
1152 ~~residential multiperil policies on a building that was insured~~  
1153 ~~by the corporation on June 30, 2014. The area eligible for~~  
1154 ~~coverage with the corporation under this sub-subparagraph~~  
1155 ~~includes the area within Port Canaveral, which is bordered on~~  
1156 ~~the south by the City of Cape Canaveral, bordered on the west by~~  
1157 ~~the Banana River, and bordered on the north by Federal~~  
1158 ~~Government property.~~

1159 ~~5. With respect to a deficit in the Citizens account:~~

1160 ~~a. Upon a determination by the board of governors that the~~  
1161 ~~Citizens account has a projected deficit, the board shall levy a~~  
1162 ~~Citizens policyholder surcharge against all policyholders of the~~  
1163 ~~corporation.~~

1164 ~~(I) The surcharge shall be levied as a uniform percentage~~  
1165 ~~of the premium for the policy of up to 15 percent of such~~  
1166 ~~premium, which funds shall be used to offset the deficit.~~

1167 ~~(II) The surcharge is payable upon cancellation or~~  
1168 ~~termination of the policy, upon renewal of the policy, or upon~~  
1169 ~~issuance of a new policy by the corporation within the first 12~~  
1170 ~~months after the date of the levy or the period of time~~  
1171 ~~necessary to fully collect the surcharge amount.~~



402706

1172           ~~(III) The surcharge is not considered premium and is not~~  
1173 ~~subject to commissions, fees, or premium taxes. However, failure~~  
1174 ~~to pay the surcharge shall be treated as failure to pay premium.~~

1175           ~~b. After accounting for the Citizens policyholder surcharge~~  
1176 ~~imposed under sub-subparagraph a., the remaining projected~~  
1177 ~~deficit incurred in the Citizens account in a particular~~  
1178 ~~calendar year shall be recovered through emergency assessments~~  
1179 ~~under sub-subparagraph c.~~

1180           ~~e. Upon a determination by the board of governors that a~~  
1181 ~~projected deficit in the Citizens account exceeds the amount~~  
1182 ~~that is expected to be recovered through surcharges under sub-~~  
1183 ~~subparagraph a., the board, after verification by the office,~~  
1184 ~~shall levy emergency assessments for as many years as necessary~~  
1185 ~~to cover the deficits, to be collected by assessable insurers~~  
1186 ~~and the corporation and collected from assessable insureds upon~~  
1187 ~~issuance or renewal of policies for subject lines of business,~~  
1188 ~~excluding National Flood Insurance Program policies. The amount~~  
1189 ~~collected in a particular year must be a uniform percentage of~~  
1190 ~~that year's direct written premium for subject lines of business~~  
1191 ~~and the Citizens account, National Flood Insurance Program~~  
1192 ~~policy premiums, as annually determined by the board and~~  
1193 ~~verified by the office. The office shall verify the arithmetic~~  
1194 ~~calculations involved in the board's determination within 30~~  
1195 ~~days after receipt of the information on which the determination~~  
1196 ~~was based. The office shall notify assessable insurers and the~~  
1197 ~~Florida Surplus Lines Service Office of the date on which~~  
1198 ~~assessable insurers shall begin to collect and assessable~~  
1199 ~~insureds shall begin to pay such assessment. The date must be at~~  
1200 ~~least 90 days after the date the corporation levies emergency~~



402706

1201 ~~assessments pursuant to this sub-subparagraph. Notwithstanding~~  
1202 ~~any other law, the corporation and each assessable insurer that~~  
1203 ~~writes subject lines of business shall collect emergency~~  
1204 ~~assessments from its policyholders without such obligation being~~  
1205 ~~affected by any credit, limitation, exemption, or deferment.~~  
1206 ~~Emergency assessments levied by the corporation on assessable~~  
1207 ~~insureds shall be collected by the surplus lines agent at the~~  
1208 ~~time the surplus lines agent collects the surplus lines tax~~  
1209 ~~required by s. 626.932 and paid to the Florida Surplus Lines~~  
1210 ~~Service Office at the time the surplus lines agent pays the~~  
1211 ~~surplus lines tax to that office. The emergency assessments~~  
1212 ~~collected shall be transferred directly to the corporation on a~~  
1213 ~~periodic basis as determined by the corporation and held by the~~  
1214 ~~corporation solely in the Citizens account. The aggregate amount~~  
1215 ~~of emergency assessments levied for the Citizens account in any~~  
1216 ~~calendar year may be less than, but may not exceed the greater~~  
1217 ~~of, 10 percent of the amount needed to cover the deficit, plus~~  
1218 ~~interest, fees, commissions, required reserves, and other costs~~  
1219 ~~associated with financing the original deficit or 10 percent of~~  
1220 ~~the aggregate statewide direct written premium for subject lines~~  
1221 ~~of business and the Citizens accounts for the prior year, plus~~  
1222 ~~interest, fees, commissions, required reserves, and other costs~~  
1223 ~~associated with financing the deficit.~~

1224 ~~d. The corporation may pledge the proceeds of assessments,~~  
1225 ~~projected recoveries from the Florida Hurricane Catastrophe~~  
1226 ~~Fund, other insurance and reinsurance recoverables, policyholder~~  
1227 ~~surcharges and other surcharges, and other funds available to~~  
1228 ~~the corporation as the source of revenue for and to secure bonds~~  
1229 ~~issued under paragraph (g), bonds or other indebtedness issued~~



402706

1230 ~~under subparagraph (c)3., or lines of credit or other financing~~  
1231 ~~mechanisms issued or created under this subsection; or to retire~~  
1232 ~~any other debt incurred as a result of deficits or events giving~~  
1233 ~~rise to deficits, or in any other way that the board determines~~  
1234 ~~will efficiently recover such deficits. The purpose of the lines~~  
1235 ~~of credit or other financing mechanisms is to provide additional~~  
1236 ~~resources to assist the corporation in covering claims and~~  
1237 ~~expenses attributable to a catastrophe. As used in this~~  
1238 ~~subsection, the term "assessments" includes emergency~~  
1239 ~~assessments under sub-subparagraph c. Emergency assessments~~  
1240 ~~collected under sub-subparagraph c. are not part of an insurer's~~  
1241 ~~rates, are not premium, and are not subject to premium tax,~~  
1242 ~~fees, or commissions; however, failure to pay the emergency~~  
1243 ~~assessment shall be treated as failure to pay premium. The~~  
1244 ~~emergency assessments shall continue as long as any bonds issued~~  
1245 ~~or other indebtedness incurred with respect to a deficit for~~  
1246 ~~which the assessment was imposed remain outstanding, unless~~  
1247 ~~adequate provision has been made for the payment of such bonds~~  
1248 ~~or other indebtedness pursuant to the documents governing such~~  
1249 ~~bonds or indebtedness.~~

1250 ~~e. As used in this subsection and for purposes of any~~  
1251 ~~deficit incurred on or after January 25, 2007, the term "subject~~  
1252 ~~lines of business" means insurance written by assessable~~  
1253 ~~insurers or procured by assessable insureds for all property and~~  
1254 ~~casualty lines of business in this state, but not including~~  
1255 ~~workers' compensation or medical malpractice. As used in this~~  
1256 ~~sub-subparagraph, the term "property and casualty lines of~~  
1257 ~~business" includes all lines of business identified on Form 2,~~  
1258 ~~Exhibit of Premiums and Losses, in the annual statement required~~



402706

1259 ~~of authorized insurers under s. 624.424 and any rule adopted~~  
1260 ~~under this section, except for those lines identified as~~  
1261 ~~accident and health insurance and except for policies written~~  
1262 ~~under the National Flood Insurance Program or the Federal Crop~~  
1263 ~~Insurance Program. For purposes of this sub-subparagraph, the~~  
1264 ~~term "workers' compensation" includes both workers' compensation~~  
1265 ~~insurance and excess workers' compensation insurance.~~

1266 ~~f. The Florida Surplus Lines Service Office shall annually~~  
1267 ~~determine the aggregate statewide written premium in subject~~  
1268 ~~lines of business procured by assessable insureds and report~~  
1269 ~~that information to the corporation in a form and at a time the~~  
1270 ~~corporation specifies to ensure that the corporation can meet~~  
1271 ~~the requirements of this subsection and the corporation's~~  
1272 ~~financing obligations.~~

1273 ~~g. The Florida Surplus Lines Service Office shall verify~~  
1274 ~~the proper application by surplus lines agents of assessment~~  
1275 ~~percentages for emergency assessments levied under this~~  
1276 ~~subparagraph on assessable insureds and assist the corporation~~  
1277 ~~in ensuring the accurate, timely collection and payment of~~  
1278 ~~assessments by surplus lines agents as required by the~~  
1279 ~~corporation.~~

1280 ~~h. If the amount of any assessments or surcharges collected~~  
1281 ~~from corporation policyholders, assessable insurers or their~~  
1282 ~~policyholders, or assessable insureds exceeds the amount of the~~  
1283 ~~deficits, such excess amounts shall be remitted to and retained~~  
1284 ~~by the corporation in a reserve to be used by the corporation,~~  
1285 ~~as determined by the board of governors and approved by the~~  
1286 ~~office, to pay claims or reduce any past, present, or future~~  
1287 ~~plan-year deficits or to reduce outstanding debt.~~



402706

1288           (c) The corporation's plan of operation:  
1289           1. Must provide for adoption of residential property and  
1290 casualty insurance policy forms and commercial residential and  
1291 nonresidential property insurance forms, which must be approved  
1292 by the office before use. The corporation shall adopt the  
1293 following policy forms:  
1294           a. Standard personal lines policy forms that are  
1295 comprehensive multiperil policies providing full coverage of a  
1296 residential property equivalent to the coverage provided in the  
1297 private insurance market under an HO-3, HO-4, or HO-6 policy.  
1298           b. Basic personal lines policy forms that are policies  
1299 similar to an HO-8 policy or a dwelling fire policy that provide  
1300 coverage meeting the requirements of the secondary mortgage  
1301 market, but which is more limited than the coverage under a  
1302 standard policy.  
1303           c. Commercial lines residential and nonresidential policy  
1304 forms that are generally similar to the basic perils of full  
1305 coverage obtainable for commercial residential structures and  
1306 commercial nonresidential structures in the admitted voluntary  
1307 market.  
1308           d. Personal lines and commercial lines residential property  
1309 insurance forms that cover the peril of wind only. The forms are  
1310 applicable only to residential properties located in areas  
1311 eligible for coverage by the Florida Windstorm Underwriting  
1312 Association, as those areas were defined on January 1, 2002.  
1313           e. Commercial lines nonresidential property insurance forms  
1314 that cover the peril of wind only. The forms are applicable only  
1315 to nonresidential properties located in areas eligible for  
1316 coverage by the Florida Windstorm Underwriting Association, as



1317 those areas were defined on January 1, 2002.

1318 f. The corporation may adopt variations of the policy forms  
1319 listed in sub-subparagraphs a.-e. which contain more restrictive  
1320 coverage.

1321 g. The corporation shall offer a basic personal lines  
1322 policy similar to an HO-8 policy with dwelling repair based on  
1323 common construction materials and methods.

1324 2. Must provide that the corporation adopt a program in  
1325 which the corporation and authorized insurers enter into quota  
1326 share primary insurance agreements for hurricane coverage, as  
1327 defined in s. 627.4025(2)(a), for eligible risks, and adopt  
1328 property insurance forms for eligible risks which cover the  
1329 peril of wind only.

1330 a. As used in this subsection, the term:

1331 (I) "Approved surplus lines insurer" means an eligible  
1332 surplus lines insurer that:

1333 (A) Has a financial strength rating of "A-" or higher from  
1334 A.M. Best Company;

1335 (B) Has a personal lines residential risk program that is  
1336 managed by a Florida resident surplus lines broker;

1337 (C) Applies to the office to participate in the take-out  
1338 process to offer coverage to applicants for new coverage from  
1339 the corporation or current policyholders of the corporation  
1340 through a take-out plan approved by the office;

1341 (D) Files rates for review as part of a take-out plan with  
1342 the office. The office shall review whether the premium is more  
1343 than 20 percent greater than the premium for comparable coverage  
1344 from the corporation; and

1345 (E) Provides data to the office related to coverage and



1346 rates in a format promulgated by the commission.

1347 (III) "Primary residence" means the dwelling that is the  
1348 policyholder's primary home or is a rental property that is the  
1349 primary home of the tenant, and which the policyholder or tenant  
1350 occupies for more than 9 months of each year.

1351 (IV) ~~(I)~~ "Quota share primary insurance" means an  
1352 arrangement in which the primary hurricane coverage of an  
1353 eligible risk is provided in specified percentages by the  
1354 corporation and an authorized insurer. The corporation and  
1355 authorized insurer are each solely responsible for a specified  
1356 percentage of hurricane coverage of an eligible risk as set  
1357 forth in a quota share primary insurance agreement between the  
1358 corporation and an authorized insurer and the insurance  
1359 contract. The responsibility of the corporation or authorized  
1360 insurer to pay its specified percentage of hurricane losses of  
1361 an eligible risk, as set forth in the agreement, may not be  
1362 altered by the inability of the other party to pay its specified  
1363 percentage of losses. Eligible risks that are provided hurricane  
1364 coverage through a quota share primary insurance arrangement  
1365 must be provided policy forms that set forth the obligations of  
1366 the corporation and authorized insurer under the arrangement,  
1367 clearly specify the percentages of quota share primary insurance  
1368 provided by the corporation and authorized insurer, and  
1369 conspicuously and clearly state that the authorized insurer and  
1370 the corporation may not be held responsible beyond their  
1371 specified percentage of coverage of hurricane losses.

1372 (II) "Eligible risks" means personal lines residential and  
1373 commercial lines residential risks that meet the underwriting  
1374 criteria of the corporation and are located in areas that were





402706

1375 eligible for coverage by the Florida Windstorm Underwriting  
1376 Association on January 1, 2002.

1377       b. The corporation may enter into quota share primary  
1378 insurance agreements with authorized insurers at corporation  
1379 coverage levels of 90 percent and 50 percent.

1380       c. If the corporation determines that additional coverage  
1381 levels are necessary to maximize participation in quota share  
1382 primary insurance agreements by authorized insurers, the  
1383 corporation may establish additional coverage levels. However,  
1384 the corporation's quota share primary insurance coverage level  
1385 may not exceed 90 percent.

1386       d. Any quota share primary insurance agreement entered into  
1387 between an authorized insurer and the corporation must provide  
1388 for a uniform specified percentage of coverage of hurricane  
1389 losses, by county or territory as set forth by the corporation  
1390 board, for all eligible risks of the authorized insurer covered  
1391 under the agreement.

1392       e. Any quota share primary insurance agreement entered into  
1393 between an authorized insurer and the corporation is subject to  
1394 review and approval by the office. However, such agreement shall  
1395 be authorized only as to insurance contracts entered into  
1396 between an authorized insurer and an insured who is already  
1397 insured by the corporation for wind coverage.

1398       f. For all eligible risks covered under quota share primary  
1399 insurance agreements, the exposure and coverage levels for both  
1400 the corporation and authorized insurers shall be reported by the  
1401 corporation to the Florida Hurricane Catastrophe Fund. For all  
1402 policies of eligible risks covered under such agreements, the  
1403 corporation and the authorized insurer must maintain complete



402706

1404 and accurate records for the purpose of exposure and loss  
1405 reimbursement audits as required by fund rules. The corporation  
1406 and the authorized insurer shall each maintain duplicate copies  
1407 of policy declaration pages and supporting claims documents.

1408 g. The corporation board shall establish in its plan of  
1409 operation standards for quota share agreements which ensure that  
1410 there is no discriminatory application among insurers as to the  
1411 terms of the agreements, pricing of the agreements, incentive  
1412 provisions if any, and consideration paid for servicing policies  
1413 or adjusting claims.

1414 h. The quota share primary insurance agreement between the  
1415 corporation and an authorized insurer must set forth the  
1416 specific terms under which coverage is provided, including, but  
1417 not limited to, the sale and servicing of policies issued under  
1418 the agreement by the insurance agent of the authorized insurer  
1419 producing the business, the reporting of information concerning  
1420 eligible risks, the payment of premium to the corporation, and  
1421 arrangements for the adjustment and payment of hurricane claims  
1422 incurred on eligible risks by the claims adjuster and personnel  
1423 of the authorized insurer. Entering into a quota sharing  
1424 insurance agreement between the corporation and an authorized  
1425 insurer is voluntary and at the discretion of the authorized  
1426 insurer.

1427 3. May provide that the corporation may employ or otherwise  
1428 contract with individuals or other entities to provide  
1429 administrative or professional services that may be appropriate  
1430 to effectuate the plan. The corporation may borrow funds by  
1431 issuing bonds or by incurring other indebtedness, and shall have  
1432 other powers reasonably necessary to effectuate the requirements



1433 of this subsection, including, without limitation, the power to  
1434 issue bonds and incur other indebtedness in order to refinance  
1435 outstanding bonds or other indebtedness. The corporation may  
1436 seek judicial validation of its bonds or other indebtedness  
1437 under chapter 75. The corporation may issue bonds or incur other  
1438 indebtedness, or have bonds issued on its behalf by a unit of  
1439 local government pursuant to subparagraph (q)2. in the absence  
1440 of a hurricane or other weather-related event, upon a  
1441 determination by the corporation, subject to approval by the  
1442 office, that such action would enable it to efficiently meet the  
1443 financial obligations of the corporation and that such  
1444 financings are reasonably necessary to effectuate the  
1445 requirements of this subsection. The corporation may take all  
1446 actions needed to facilitate tax-free status for such bonds or  
1447 indebtedness, including formation of trusts or other affiliated  
1448 entities. The corporation may pledge assessments, projected  
1449 recoveries from the Florida Hurricane Catastrophe Fund, other  
1450 reinsurance recoverables, policyholder surcharges and other  
1451 surcharges, and other funds available to the corporation as  
1452 security for bonds or other indebtedness. In recognition of s.  
1453 10, Art. I of the State Constitution, prohibiting the impairment  
1454 of obligations of contracts, it is the intent of the Legislature  
1455 that no action be taken whose purpose is to impair any bond  
1456 indenture or financing agreement or any revenue source committed  
1457 by contract to such bond or other indebtedness.

1458 4. Must require that the corporation operate subject to the  
1459 supervision and approval of a board of governors consisting of  
1460 nine individuals who are residents of this state and who are  
1461 from different geographical areas of the state, one of whom is



1462 appointed by the Governor and serves solely to advocate on  
1463 behalf of the consumer. The appointment of a consumer  
1464 representative by the Governor is deemed to be within the scope  
1465 of the exemption provided in s. 112.313(7)(b) and is in addition  
1466 to the appointments authorized under sub-subparagraph a.

1467 a. The Governor, the Chief Financial Officer, the President  
1468 of the Senate, and the Speaker of the House of Representatives  
1469 shall each appoint two members of the board. At least one of the  
1470 two members appointed by each appointing officer must have  
1471 demonstrated expertise in insurance and be deemed to be within  
1472 the scope of the exemption provided in s. 112.313(7)(b). The  
1473 Chief Financial Officer shall designate one of the appointees as  
1474 chair. All board members serve at the pleasure of the appointing  
1475 officer. All members of the board are subject to removal at will  
1476 by the officers who appointed them. All board members, including  
1477 the chair, must be appointed to serve for 3-year terms beginning  
1478 annually on a date designated by the plan. However, for the  
1479 first term beginning on or after July 1, 2009, each appointing  
1480 officer shall appoint one member of the board for a 2-year term  
1481 and one member for a 3-year term. A board vacancy shall be  
1482 filled for the unexpired term by the appointing officer. The  
1483 Chief Financial Officer shall appoint a technical advisory group  
1484 to provide information and advice to the board in connection  
1485 with the board's duties under this subsection. The executive  
1486 director and senior managers of the corporation shall be engaged  
1487 by the board and serve at the pleasure of the board. Any  
1488 executive director appointed on or after July 1, 2006, is  
1489 subject to confirmation by the Senate. The executive director is  
1490 responsible for employing other staff as the corporation may



402706

1491 require, subject to review and concurrence by the board.

1492       b. The board shall create a Market Accountability Advisory  
1493 Committee to assist the corporation in developing awareness of  
1494 its rates and its customer and agent service levels in  
1495 relationship to the voluntary market insurers writing similar  
1496 coverage.

1497       (I) The members of the advisory committee consist of the  
1498 following 11 persons, one of whom must be elected chair by the  
1499 members of the committee: four representatives, one appointed by  
1500 the Florida Association of Insurance Agents, one by the Florida  
1501 Association of Insurance and Financial Advisors, one by the  
1502 Professional Insurance Agents of Florida, and one by the Latin  
1503 American Association of Insurance Agencies; three  
1504 representatives appointed by the insurers with the three highest  
1505 voluntary market share of residential property insurance  
1506 business in the state; one representative from the Office of  
1507 Insurance Regulation; one consumer appointed by the board who is  
1508 insured by the corporation at the time of appointment to the  
1509 committee; one representative appointed by the Florida  
1510 Association of Realtors; and one representative appointed by the  
1511 Florida Bankers Association. All members shall be appointed to  
1512 3-year terms and may serve for consecutive terms.

1513       (II) The committee shall report to the corporation at each  
1514 board meeting on insurance market issues which may include rates  
1515 and rate competition with the voluntary market; service,  
1516 including policy issuance, claims processing, and general  
1517 responsiveness to policyholders, applicants, and agents; and  
1518 matters relating to depopulation.

1519       5. Must provide a procedure for determining the eligibility



402706

1520 of a risk for coverage, as follows:

1521       a. Subject to s. 627.3517, with respect to personal lines  
1522 residential risks that are primary residences, if the risk is  
1523 offered coverage from an authorized insurer at the insurer's  
1524 approved rate under a standard policy including wind coverage  
1525 or, if consistent with the insurer's underwriting rules as filed  
1526 with the office, a basic policy including wind coverage, for a  
1527 new application to the corporation for coverage, the risk is not  
1528 eligible for any policy issued by the corporation unless the  
1529 premium for coverage from the authorized insurer is more than 20  
1530 percent greater than the premium for comparable coverage from  
1531 the corporation. Whenever an offer of coverage for a personal  
1532 lines residential risk that is a primary residence is received  
1533 for a policyholder of the corporation at renewal from an  
1534 authorized insurer, if the offer is equal to or less than the  
1535 corporation's renewal premium for comparable coverage, the risk  
1536 is not eligible for coverage with the corporation for policies  
1537 that renew before April 1, 2023; for policies that renew on or  
1538 after that date, the risk is not eligible for coverage with the  
1539 corporation unless the premium for coverage from the authorized  
1540 insurer is more than 20 percent greater than the corporation's  
1541 renewal premium for comparable coverage. If the risk is not able  
1542 to obtain such offer, the risk is eligible for a standard policy  
1543 including wind coverage or a basic policy including wind  
1544 coverage issued by the corporation; however, if the risk could  
1545 not be insured under a standard policy including wind coverage  
1546 regardless of market conditions, the risk is eligible for a  
1547 basic policy including wind coverage unless rejected under  
1548 subparagraph 8. The corporation shall determine the type of



1549 policy to be provided on the basis of objective standards  
1550 specified in the underwriting manual and based on generally  
1551 accepted underwriting practices. A policyholder removed from the  
1552 corporation through an assumption agreement does not remain  
1553 eligible for coverage from the corporation after the end of the  
1554 policy term. However, any policy removed from the corporation  
1555 through an assumption agreement remains on the corporation's  
1556 policy forms through the end of the policy term. This sub-  
1557 subparagraph applies only to risks that are primary residences.

1558 (I) If the risk accepts an offer of coverage through the  
1559 market assistance plan or through a mechanism established by the  
1560 corporation other than a plan established by s. 627.3518, before  
1561 a policy is issued to the risk by the corporation or during the  
1562 first 30 days of coverage by the corporation, and the producing  
1563 agent who submitted the application to the plan or to the  
1564 corporation is not currently appointed by the insurer, the  
1565 insurer shall:

1566 (A) Pay to the producing agent of record of the policy for  
1567 the first year, an amount that is the greater of the insurer's  
1568 usual and customary commission for the type of policy written or  
1569 a fee equal to the usual and customary commission of the  
1570 corporation; or

1571 (B) Offer to allow the producing agent of record of the  
1572 policy to continue servicing the policy for at least 1 year and  
1573 offer to pay the agent the greater of the insurer's or the  
1574 corporation's usual and customary commission for the type of  
1575 policy written.

1576  
1577 If the producing agent is unwilling or unable to accept



402706

1578 appointment, the new insurer shall pay the agent in accordance  
1579 with sub-sub-sub-subparagraph (A).

1580 (II) If the corporation enters into a contractual agreement  
1581 for a take-out plan, the producing agent of record of the  
1582 corporation policy is entitled to retain any unearned commission  
1583 on the policy, and the insurer shall:

1584 (A) Pay to the producing agent of record, for the first  
1585 year, an amount that is the greater of the insurer's usual and  
1586 customary commission for the type of policy written or a fee  
1587 equal to the usual and customary commission of the corporation;  
1588 or

1589 (B) Offer to allow the producing agent of record to  
1590 continue servicing the policy for at least 1 year and offer to  
1591 pay the agent the greater of the insurer's or the corporation's  
1592 usual and customary commission for the type of policy written.

1593  
1594 If the producing agent is unwilling or unable to accept  
1595 appointment, the new insurer shall pay the agent in accordance  
1596 with sub-sub-sub-subparagraph (A).

1597 b. Subject to s. 627.3517, with respect to personal lines  
1598 residential risks that are not primary residences, if the risk  
1599 is offered coverage from an authorized insurer at the insurer's  
1600 approved rate or from an approved surplus lines insurer at the  
1601 rate approved by the office as part of such surplus lines  
1602 insurer's take-out plan for a new application to the corporation  
1603 for coverage, the risk is not eligible for any policy issued by  
1604 the corporation unless the premium for coverage from the  
1605 authorized insurer or approved surplus lines insurer is more  
1606 than 20 percent greater than the premium for comparable coverage





402706

1607 from the corporation. Whenever an offer of coverage for a  
1608 personal lines residential risk that is not a primary residence  
1609 is received for a policyholder of the corporation at renewal  
1610 from an authorized insurer at the insurer's approved rate or an  
1611 approved surplus lines insurer at the rate approved by the  
1612 office as part of such insurer's take-out plan, the risk is not  
1613 eligible for coverage with the corporation unless the premium  
1614 for coverage from the authorized insurer or approved surplus  
1615 lines insurer is more than 20 percent greater than the  
1616 corporation's renewal premium for comparable coverage for  
1617 policies that renew on or after July 1, 2024. If the risk is not  
1618 able to obtain such offer, the risk is eligible for a standard  
1619 policy including wind coverage or a basic policy including wind  
1620 coverage issued by the corporation. If the risk could not be  
1621 insured under a standard policy including wind coverage  
1622 regardless of market conditions, the risk is eligible for a  
1623 basic policy including wind coverage unless rejected under  
1624 subparagraph 8. The corporation shall determine the type of  
1625 policy to be provided on the basis of objective standards  
1626 specified in the underwriting manual and based on generally  
1627 accepted underwriting practices. A policyholder removed from the  
1628 corporation through an assumption agreement does not remain  
1629 eligible for coverage from the corporation after the end of the  
1630 policy term. However, any policy removed from the corporation  
1631 through an assumption agreement remains on the corporation's  
1632 policy forms through the end of the policy term.

1633 (I) If the risk accepts an offer of coverage through the  
1634 market assistance plan or through a mechanism established by the  
1635 corporation other than a plan established by s. 627.3518, before



402706

1636 a policy is issued to the risk by the corporation or during the  
1637 first 30 days of coverage by the corporation, and the producing  
1638 agent who submitted the application to the plan or to the  
1639 corporation is not currently appointed by the insurer, the  
1640 insurer must:

1641 (A) Pay to the producing agent of record of the policy, for  
1642 the first year, an amount that is the greater of the insurer's  
1643 usual and customary commission for the type of policy written or  
1644 a fee equal to the usual and customary commission of the  
1645 corporation; or

1646 (B) Offer to allow the producing agent of record of the  
1647 policy to continue servicing the policy for at least 1 year and  
1648 offer to pay the agent the greater of the insurer's or the  
1649 corporation's usual and customary commission for the type of  
1650 policy written.

1651  
1652 If the producing agent is unwilling or unable to accept  
1653 appointment, the new insurer must pay the agent in accordance  
1654 with sub-sub-sub-subparagraph (A).

1655 (II) If the corporation enters into a contractual agreement  
1656 for a take-out plan, the producing agent of record of the  
1657 corporation policy is entitled to retain any unearned commission  
1658 on the policy, and the insurer must:

1659 (A) Pay to the producing agent of record, for the first  
1660 year, an amount that is the greater of the insurer's usual and  
1661 customary commission for the type of policy written or a fee  
1662 equal to the usual and customary commission of the corporation;  
1663 or

1664 (B) Offer to allow the producing agent of record to



402706

1665 continue servicing the policy for at least 1 year and offer to  
1666 pay the agent the greater of the insurer's or the corporation's  
1667 usual and customary commission for the type of policy written.

1668  
1669 If the producing agent is unwilling or unable to accept  
1670 appointment, the new insurer shall pay the agent in accordance  
1671 with sub-sub-sub-subparagraph (A).

1672 c.~~b.~~ With respect to commercial lines residential risks,  
1673 for a new application to the corporation for coverage, if the  
1674 risk is offered coverage under a policy including wind coverage  
1675 from an authorized insurer at its approved rate, the risk is not  
1676 eligible for a policy issued by the corporation unless the  
1677 premium for coverage from the authorized insurer is more than 20  
1678 percent greater than the premium for comparable coverage from  
1679 the corporation. Whenever an offer of coverage for a commercial  
1680 lines residential risk is received for a policyholder of the  
1681 corporation at renewal from an authorized insurer, the risk is  
1682 not eligible for coverage with the corporation unless the  
1683 premium for coverage from the authorized insurer is more than 20  
1684 percent greater than the corporation's renewal premium for  
1685 comparable coverage. If the risk is not able to obtain any such  
1686 offer, the risk is eligible for a policy including wind coverage  
1687 issued by the corporation. A policyholder removed from the  
1688 corporation through an assumption agreement remains eligible for  
1689 coverage from the corporation until the end of the policy term.  
1690 However, any policy removed from the corporation through an  
1691 assumption agreement remains on the corporation's policy forms  
1692 through the end of the policy term.

1693 (I) If the risk accepts an offer of coverage through the



1694 market assistance plan or through a mechanism established by the  
1695 corporation other than a plan established by s. 627.3518, before  
1696 a policy is issued to the risk by the corporation or during the  
1697 first 30 days of coverage by the corporation, and the producing  
1698 agent who submitted the application to the plan or the  
1699 corporation is not currently appointed by the insurer, the  
1700 insurer shall:

1701 (A) Pay to the producing agent of record of the policy, for  
1702 the first year, an amount that is the greater of the insurer's  
1703 usual and customary commission for the type of policy written or  
1704 a fee equal to the usual and customary commission of the  
1705 corporation; or

1706 (B) Offer to allow the producing agent of record of the  
1707 policy to continue servicing the policy for at least 1 year and  
1708 offer to pay the agent the greater of the insurer's or the  
1709 corporation's usual and customary commission for the type of  
1710 policy written.

1711  
1712 If the producing agent is unwilling or unable to accept  
1713 appointment, the new insurer shall pay the agent in accordance  
1714 with sub-sub-sub-subparagraph (A).

1715 (II) If the corporation enters into a contractual agreement  
1716 for a take-out plan, the producing agent of record of the  
1717 corporation policy is entitled to retain any unearned commission  
1718 on the policy, and the insurer shall:

1719 (A) Pay to the producing agent of record, for the first  
1720 year, an amount that is the greater of the insurer's usual and  
1721 customary commission for the type of policy written or a fee  
1722 equal to the usual and customary commission of the corporation;



402706

1723 or

1724 (B) Offer to allow the producing agent of record to  
1725 continue servicing the policy for at least 1 year and offer to  
1726 pay the agent the greater of the insurer's or the corporation's  
1727 usual and customary commission for the type of policy written.

1728

1729 If the producing agent is unwilling or unable to accept  
1730 appointment, the new insurer shall pay the agent in accordance  
1731 with sub-sub-sub-subparagraph (A).

1732 ~~d.e.~~ For purposes of determining comparable coverage under  
1733 sub-subparagraphs a., ~~and b., and c.,~~ the comparison must be  
1734 based on those forms and coverages that are reasonably  
1735 comparable. The corporation may rely on a determination of  
1736 comparable coverage and premium made by the producing agent who  
1737 submits the application to the corporation, made in the agent's  
1738 capacity as the corporation's agent. For purposes of comparing  
1739 the premium for comparable coverage under sub-subparagraphs a.,  
1740 ~~and b., and c.~~ premium includes any surcharge or assessment that  
1741 is actually applied to such policy. A comparison may be made  
1742 solely of the premium with respect to the main building or  
1743 structure only on the following basis: the same Coverage A or  
1744 other building limits; the same percentage hurricane deductible  
1745 that applies on an annual basis or that applies to each  
1746 hurricane for commercial residential property; the same  
1747 percentage of ordinance and law coverage, if the same limit is  
1748 offered by both the corporation and the authorized insurer or  
1749 the approved surplus line insurer; the same mitigation credits,  
1750 to the extent the same types of credits are offered both by the  
1751 corporation and the authorized insurer or the approved surplus



1752 lines insurer; the same method for loss payment, such as  
1753 replacement cost or actual cash value, if the same method is  
1754 offered both by the corporation and the authorized insurer in  
1755 accordance with underwriting rules; and any other form or  
1756 coverage that is reasonably comparable as determined by the  
1757 board. If an application is submitted to the corporation for  
1758 wind-only coverage on a risk that is located in an area eligible  
1759 for coverage by the Florida Windstorm Underwriting Association,  
1760 as that area was defined on January 1, 2002, the premium for the  
1761 corporation's wind-only policy plus the premium for the ex-wind  
1762 policy that is offered by an authorized insurer to the applicant  
1763 must be compared to the premium for multiperil coverage offered  
1764 by an authorized insurer, subject to the standards for  
1765 comparison specified in this subparagraph. If the corporation or  
1766 the applicant requests from the authorized insurer or the  
1767 approved surplus lines insurer a breakdown of the premium of the  
1768 offer by types of coverage so that a comparison may be made by  
1769 the corporation or its agent and the authorized insurer or the  
1770 approved surplus lines insurer refuses or is unable to provide  
1771 such information, the corporation may treat the offer as not  
1772 being an offer of coverage from an authorized insurer at the  
1773 insurer's approved rate.

1774 6. Must include rules for classifications of risks and  
1775 rates.

1776 7. Must provide that if premium and investment income:  
1777 ~~a.~~ for the Citizens ~~an~~ account, which are attributable to a  
1778 particular calendar year, are in excess of projected losses and  
1779 expenses for the Citizens account attributable to that year,  
1780 such excess shall be held in surplus in the Citizens account.



402706

1781 Such surplus must be available to defray deficits in the  
1782 Citizens ~~that~~ account as to future years and used for that  
1783 purpose before assessing assessable insurers and assessable  
1784 insureds as to any calendar year; ~~or~~

1785 ~~b. For the Citizens account, if established by the~~  
1786 ~~corporation, which are attributable to a particular calendar~~  
1787 ~~year are in excess of projected losses and expenses for the~~  
1788 ~~Citizens account attributable to that year, such excess shall be~~  
1789 ~~held in surplus in the Citizens account. Such surplus must be~~  
1790 ~~available to defray deficits in the Citizens account as to~~  
1791 ~~future years and used for that purpose before assessing~~  
1792 ~~assessable insurers and assessable insureds as to any calendar~~  
1793 ~~year.~~

1794 8. Must provide objective criteria and procedures to be  
1795 uniformly applied to all applicants in determining whether an  
1796 individual risk is so hazardous as to be uninsurable. In making  
1797 this determination and in establishing the criteria and  
1798 procedures, the following must be considered:

1799 a. Whether the likelihood of a loss for the individual risk  
1800 is substantially higher than for other risks of the same class;  
1801 and

1802 b. Whether the uncertainty associated with the individual  
1803 risk is such that an appropriate premium cannot be determined.

1804  
1805 The acceptance or rejection of a risk by the corporation shall  
1806 be construed as the private placement of insurance, and the  
1807 provisions of chapter 120 do not apply.

1808 9. Must provide that the corporation make its best efforts  
1809 to procure catastrophe reinsurance at reasonable rates, to cover



1810 its projected 100-year probable maximum loss as determined by  
1811 the board of governors. If catastrophe reinsurance is not  
1812 available at reasonable rates, the corporation need not purchase  
1813 it, but the corporation shall include the costs of reinsurance  
1814 to cover its projected 100-year probable maximum loss in its  
1815 rate calculations even if it does not purchase catastrophe  
1816 reinsurance.

1817       10. The policies issued by the corporation must provide  
1818 that if the corporation or the market assistance plan obtains an  
1819 offer from an authorized insurer to cover the risk at its  
1820 approved rates, the risk is no longer eligible for renewal  
1821 through the corporation, except as otherwise provided in this  
1822 subsection.

1823       11. Corporation policies and applications must include a  
1824 notice that the corporation policy could, under this section, be  
1825 replaced with a policy issued by an authorized insurer which  
1826 does not provide coverage identical to the coverage provided by  
1827 the corporation. The notice must also specify that acceptance of  
1828 corporation coverage creates a conclusive presumption that the  
1829 applicant or policyholder is aware of this potential.

1830       12. May establish, subject to approval by the office,  
1831 different eligibility requirements and operational procedures  
1832 for any line or type of coverage for any specified county or  
1833 area if the board determines that such changes are justified due  
1834 to the voluntary market being sufficiently stable and  
1835 competitive in such area or for such line or type of coverage  
1836 and that consumers who, in good faith, are unable to obtain  
1837 insurance through the voluntary market through ordinary methods  
1838 continue to have access to coverage from the corporation. If





402706

1839 coverage is sought in connection with a real property transfer,  
1840 the requirements and procedures may not provide an effective  
1841 date of coverage later than the date of the closing of the  
1842 transfer as established by the transferor, the transferee, and,  
1843 if applicable, the lender.

1844 13. ~~Must provide that:~~

1845 a. ~~With respect to the coastal account, any assessable~~  
1846 ~~insurer with a surplus as to policyholders of \$25 million or~~  
1847 ~~less writing 25 percent or more of its total countrywide~~  
1848 ~~property insurance premiums in this state may petition the~~  
1849 ~~office, within the first 90 days of each calendar year, to~~  
1850 ~~qualify as a limited apportionment company. A regular assessment~~  
1851 ~~levied by the corporation on a limited apportionment company for~~  
1852 ~~a deficit incurred by the corporation for the coastal account~~  
1853 ~~may be paid to the corporation on a monthly basis as the~~  
1854 ~~assessments are collected by the limited apportionment company~~  
1855 ~~from its insureds, but a limited apportionment company must~~  
1856 ~~begin collecting the regular assessments not later than 90 days~~  
1857 ~~after the regular assessments are levied by the corporation, and~~  
1858 ~~the regular assessments must be paid in full within 15 months~~  
1859 ~~after being levied by the corporation. A limited apportionment~~  
1860 ~~company shall collect from its policyholders any emergency~~  
1861 ~~assessment imposed under sub-subparagraph (b)3.e. The plan must~~  
1862 ~~provide that, if the office determines that any regular~~  
1863 ~~assessment will result in an impairment of the surplus of a~~  
1864 ~~limited apportionment company, the office may direct that all or~~  
1865 ~~part of such assessment be deferred as provided in subparagraph~~  
1866 ~~(q)4. However, an emergency assessment to be collected from~~  
1867 ~~policyholders under sub-subparagraph (b)3.e. may not be limited~~



402706

1868 ~~or deferred; or~~  
1869       ~~b. With respect to the Citizens account, if established by~~  
1870 ~~the corporation pursuant to sub-subparagraph (b)2.b., any~~  
1871 ~~assessable insurer with a surplus as to policyholders of \$25~~  
1872 ~~million or less and writing 25 percent or more of its total~~  
1873 ~~countrywide property insurance premiums in this state may~~  
1874 ~~petition the office, within the first 90 days of each calendar~~  
1875 ~~year, to qualify as a limited apportionment company. A limited~~  
1876 ~~apportionment company shall collect from its policyholders any~~  
1877 ~~emergency assessment imposed under sub-subparagraph (b)5.c. An~~  
1878 ~~emergency assessment to be collected from policyholders under~~  
1879 ~~sub-subparagraph (b)5.c. may not be limited or deferred.~~  
1880       ~~14.~~ Must provide that the corporation appoint as its  
1881 licensed agents only those agents who throughout such  
1882 appointments also hold an appointment as defined in s. 626.015  
1883 by at least three insurers ~~an insurer~~ who are ~~is~~ authorized to  
1884 write and are ~~is~~ actually writing or renewing personal lines  
1885 residential property coverage, commercial residential property  
1886 coverage, or commercial nonresidential property coverage within  
1887 the state.  
1888       ~~14.15.~~ Must provide a premium payment plan option to its  
1889 policyholders which, at a minimum, allows for quarterly and  
1890 semiannual payment of premiums. A monthly payment plan may, but  
1891 is not required to, be offered.  
1892       ~~15.16.~~ Must limit coverage on mobile homes or manufactured  
1893 homes built before 1994 to actual cash value of the dwelling  
1894 rather than replacement costs of the dwelling.  
1895       ~~16.17.~~ Must provide coverage for manufactured or mobile  
1896 home dwellings. Such coverage must also include the following



402706

1897 attached structures:

1898 a. Screened enclosures that are aluminum framed or screened  
1899 enclosures that are not covered by the same or substantially the  
1900 same materials as those of the primary dwelling;

1901 b. Carports that are aluminum or carports that are not  
1902 covered by the same or substantially the same materials as those  
1903 of the primary dwelling; and

1904 c. Patios that have a roof covering that is constructed of  
1905 materials that are not the same or substantially the same  
1906 materials as those of the primary dwelling.

1907  
1908 The corporation shall make available a policy for mobile homes  
1909 or manufactured homes for a minimum insured value of at least  
1910 \$3,000.

1911 ~~17.18.~~ May provide such limits of coverage as the board  
1912 determines, consistent with the requirements of this subsection.

1913 ~~18.19.~~ May require commercial property to meet specified  
1914 hurricane mitigation construction features as a condition of  
1915 eligibility for coverage.

1916 ~~19.20.~~ Must provide that new or renewal policies issued by  
1917 the corporation on or after January 1, 2012, which cover  
1918 sinkhole loss do not include coverage for any loss to  
1919 appurtenant structures, driveways, sidewalks, decks, or patios  
1920 that are directly or indirectly caused by sinkhole activity. The  
1921 corporation shall exclude such coverage using a notice of  
1922 coverage change, which may be included with the policy renewal,  
1923 and not by issuance of a notice of nonrenewal of the excluded  
1924 coverage upon renewal of the current policy.

1925 ~~20.a.21.a. As of January 1, 2012, unless the Citizens~~



402706

1926 ~~account has been established pursuant to sub-subparagraph~~  
1927 ~~(b)2.b.~~, Must require that the agent obtain from an applicant  
1928 for coverage from the corporation an acknowledgment signed by  
1929 the applicant, which includes, at a minimum, the following  
1930 statement:

1931  
1932 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE  
1933 AND ASSESSMENT LIABILITY:

1934  
1935 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE  
1936 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A  
1937 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,  
1938 MY POLICY COULD BE SUBJECT TO SURCHARGES AND ASSESSMENTS, WHICH  
1939 WILL BE DUE AND PAYABLE UPON RENEWAL, CANCELLATION, OR  
1940 TERMINATION OF THE POLICY, AND THAT THE SURCHARGES AND  
1941 ASSESSMENTS COULD BE AS HIGH AS 25 ~~45~~ PERCENT OF MY PREMIUM, OR  
1942 A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA LEGISLATURE.

1943 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER  
1944 SURCHARGE, WHICH COULD BE AS HIGH AS 15 ~~45~~ PERCENT OF MY  
1945 PREMIUM, BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND  
1946 THAT TO BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY  
1947 TO OBTAIN PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR  
1948 RENEWING COVERAGE WITH CITIZENS. I UNDERSTAND THAT PRIVATE  
1949 MARKET INSURANCE RATES ARE REGULATED AND APPROVED BY THE STATE.

1950 3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY  
1951 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER  
1952 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE  
1953 FLORIDA LEGISLATURE.

1954 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE



402706

1955 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE  
1956 STATE OF FLORIDA.

1957  
1958 ~~b. The corporation must require, if it has established the~~  
1959 ~~Citizens account pursuant to sub-subparagraph (b)2.b., that the~~  
1960 ~~agent obtain from an applicant for coverage from the corporation~~  
1961 ~~the following acknowledgment signed by the applicant, which~~  
1962 ~~includes, at a minimum, the following statement:~~

1963  
1964 ~~ACKNOWLEDGMENT OF POTENTIAL SURCHARGE~~  
1965 ~~AND ASSESSMENT LIABILITY:~~  
1966

1967 ~~1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE~~  
1968 ~~CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A~~  
1969 ~~DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,~~  
1970 ~~MY POLICY COULD BE SUBJECT TO SURCHARGES AND ASSESSMENTS, WHICH~~  
1971 ~~WILL BE DUE AND PAYABLE UPON RENEWAL, CANCELLATION, OR~~  
1972 ~~TERMINATION OF THE POLICY, AND THAT THE SURCHARGES AND~~  
1973 ~~ASSESSMENTS COULD BE AS HIGH AS 25 PERCENT OF MY PREMIUM, OR A~~  
1974 ~~DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA LEGISLATURE.~~

1975 ~~2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER~~  
1976 ~~SURCHARGE, WHICH COULD BE AS HIGH AS 15 PERCENT OF MY PREMIUM,~~  
1977 ~~BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO~~  
1978 ~~BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN~~  
1979 ~~PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE~~  
1980 ~~WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES~~  
1981 ~~ARE REGULATED AND APPROVED BY THE STATE.~~

1982 ~~3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY~~  
1983 ~~ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER~~



402706

1984 ~~INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE~~  
1985 ~~FLORIDA LEGISLATURE.~~

1986 ~~4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE~~  
1987 ~~CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE~~  
1988 ~~STATE OF FLORIDA.~~

1989  
1990 ~~b.e.~~ The corporation shall maintain, in electronic format  
1991 or otherwise, a copy of the applicant's signed acknowledgment  
1992 and provide a copy of the statement to the policyholder as part  
1993 of the first renewal after the effective date of sub-  
1994 subparagraph a. ~~or sub-subparagraph b., as applicable.~~

1995 ~~c.d.~~ The signed acknowledgment form creates a conclusive  
1996 presumption that the policyholder understood and accepted his or  
1997 her potential surcharge and assessment liability as a  
1998 policyholder of the corporation.

1999 (e) The corporation is subject to s. 287.057 for the  
2000 purchase of commodities and contractual services except as  
2001 otherwise provided in this paragraph. Services provided by  
2002 tradepersons or technical experts to assist a licensed adjuster  
2003 in the evaluation of individual claims are not subject to the  
2004 procurement requirements of this section. Additionally, the  
2005 procurement of financial services providers and underwriters  
2006 must be made pursuant to s. 627.3513. Contracts for goods or  
2007 services valued at or more than \$100,000 are subject to approval  
2008 by the board.

2009 1. The corporation is an agency for purposes of s. 287.057,  
2010 except that, for purposes of s. 287.057(24), the corporation is  
2011 an eligible user.

2012 a. The authority of the Department of Management Services



402706

2013 and the Chief Financial Officer under s. 287.057 extends to the  
2014 corporation as if the corporation were an agency.

2015 b. The executive director of the corporation is the agency  
2016 head under s. 287.057, ~~except for resolution of bid protests for~~  
2017 ~~which the board would serve as the agency head.~~ The executive  
2018 director of the corporation may assign or appoint a designee to  
2019 act on his or her behalf.

2020 2. The corporation must provide notice of a decision or  
2021 intended decision concerning a solicitation, contract award, or  
2022 exceptional purchase by electronic posting. Such notice must  
2023 contain the following statement: "Failure to file a protest  
2024 within the time prescribed in this section constitutes a waiver  
2025 of proceedings."

2026 a. A person adversely affected by the corporation's  
2027 decision or intended decision to award a contract pursuant to s.  
2028 287.057(1) or (3)(c) who elects to challenge the decision must  
2029 file a written notice of protest with the executive director of  
2030 the corporation within 72 hours after the corporation posts a  
2031 notice of its decision or intended decision. For a protest of  
2032 the terms, conditions, and specifications contained in a  
2033 solicitation, including provisions governing the methods for  
2034 ranking bids, proposals, replies, awarding contracts, reserving  
2035 rights of further negotiation, or modifying or amending any  
2036 contract, the notice of protest must be filed in writing within  
2037 72 hours after posting the solicitation. Saturdays, Sundays, and  
2038 state holidays are excluded in the computation of the 72-hour  
2039 time period.

2040 b. A formal written protest must be filed within 10 days  
2041 after the date the notice of protest is filed. The formal



402706

2042 written protest must state with particularity the facts and law  
2043 upon which the protest is based. Upon receipt of a formal  
2044 written protest that has been timely filed, the corporation must  
2045 stop the solicitation or contract award process until the  
2046 subject of the protest is resolved by final board action unless  
2047 the executive director sets forth in writing particular facts  
2048 and circumstances that require the continuance of the  
2049 solicitation or contract award process without delay in order to  
2050 avoid an immediate and serious danger to the public health,  
2051 safety, or welfare.

2052 (I) The corporation must provide an opportunity to resolve  
2053 the protest by mutual agreement between the parties within 7  
2054 business days after receipt of the formal written protest.

2055 (II) If the subject of a protest is not resolved by mutual  
2056 agreement within 7 business days, the corporation's board must  
2057 transmit the protest to the Division of Administrative Hearings  
2058 and contract with the division to conduct a hearing to determine  
2059 the merits of the protest and to issue a recommended order. The  
2060 contract must provide for the corporation to reimburse the  
2061 division for any costs incurred by the division for court  
2062 reporters, transcript preparation, travel, facility rental, and  
2063 other customary hearing costs in the manner set forth in s.  
2064 120.65(9). The division has jurisdiction to determine the facts  
2065 and law concerning the protest and to issue a recommended order.  
2066 The division's rules and procedures apply to these proceedings,  
2067 ~~the division's applicable bond requirements do not apply.~~ The  
2068 protest must be heard by the division at a publicly noticed  
2069 meeting in accordance with procedures established by the  
2070 division.





402706

2071           c. In a protest of an invitation-to-bid or request-for-  
2072 proposals procurement, submissions made after the bid or  
2073 proposal opening which amend or supplement the bid or proposal  
2074 may not be considered. In protesting an invitation-to-negotiate  
2075 procurement, submissions made after the corporation announces  
2076 its intent to award a contract, reject all replies, or withdraw  
2077 the solicitation that amends or supplements the reply may not be  
2078 considered. Unless otherwise provided by law, the burden of  
2079 proof rests with the party protesting the corporation's action.  
2080 In a competitive-procurement protest, other than a rejection of  
2081 all bids, proposals, or replies, the administrative law judge  
2082 must conduct a de novo proceeding to determine whether the  
2083 corporation's proposed action is contrary to the corporation's  
2084 governing statutes, the corporation's rules or policies, or the  
2085 solicitation specifications. The standard of proof for the  
2086 proceeding is whether the corporation's action was clearly  
2087 erroneous, contrary to competition, arbitrary, or capricious. In  
2088 any bid-protest proceeding contesting an intended corporation  
2089 action to reject all bids, proposals, or replies, the standard  
2090 of review by the board is whether the corporation's intended  
2091 action is illegal, arbitrary, dishonest, or fraudulent.

2092           d. Failure to file a notice of protest or failure to file a  
2093 formal written protest constitutes a waiver of proceedings.

2094           3. The ~~board, acting as~~ agency head or his or her designee,  
2095 shall consider the recommended order of an administrative law  
2096 judge ~~in a public meeting~~ and take final action on the protest.  
2097 Any further legal remedy lies with the First District Court of  
2098 Appeal.

2099           (o) If coverage in ~~an account,~~ or the Citizens account ~~if~~



402706

2100 ~~established by the corporation,~~ is deactivated pursuant to  
2101 paragraph (p), coverage through the corporation shall be  
2102 reactivated by order of the office only under one of the  
2103 following circumstances:

2104       1. If the market assistance plan receives a minimum of 100  
2105 applications for coverage within a 3-month period, or 200  
2106 applications for coverage within a 1-year period or less for  
2107 residential coverage, unless the market assistance plan provides  
2108 a quotation from authorized ~~admitted~~ carriers at their approved  
2109 ~~filed~~ rates for at least 90 percent of such applicants. Any  
2110 market assistance plan application that is rejected because an  
2111 individual risk is so hazardous as to be uninsurable using the  
2112 criteria specified in subparagraph (c)8. may ~~shall~~ not be  
2113 included in the minimum percentage calculation provided herein.  
2114 In the event that there is a legal or administrative challenge  
2115 to a determination by the office that the conditions of this  
2116 subparagraph have been met for eligibility for coverage in the  
2117 corporation, any eligible risk may obtain coverage during the  
2118 pendency of such challenge.

2119       2. In response to a state of emergency declared by the  
2120 Governor under s. 252.36, the office may activate coverage by  
2121 order for the period of the emergency upon a finding by the  
2122 office that the emergency significantly affects the availability  
2123 of residential property insurance.

2124       (p)1. The corporation shall file with the office quarterly  
2125 statements of financial condition, an annual statement of  
2126 financial condition, and audited financial statements in the  
2127 manner prescribed by law. In addition, the corporation shall  
2128 report to the office monthly on the types, premium, exposure,



402706

2129 and distribution by county of its policies in force, and shall  
2130 submit other reports as the office requires to carry out its  
2131 oversight of the corporation.

2132 2. The activities of the corporation shall be reviewed at  
2133 least annually by the office to determine whether coverage shall  
2134 be deactivated in ~~an account, or in~~ the Citizens account ~~if~~  
2135 ~~established by the corporation,~~ on the basis that the conditions  
2136 giving rise to its activation no longer exist.

2137 (q)1. The corporation shall certify to the office its needs  
2138 for annual assessments as to a particular calendar year, and for  
2139 any interim assessments that it deems to be necessary to sustain  
2140 operations as to a particular year pending the receipt of annual  
2141 assessments. Upon verification, the office shall approve such  
2142 certification, and the corporation shall levy such annual or  
2143 interim assessments. Such assessments shall be prorated, if  
2144 authority to levy exists, as provided in paragraph (b). The  
2145 corporation shall take all reasonable and prudent steps  
2146 necessary to collect the amount of assessments due from each  
2147 assessable insurer, including, if prudent, filing suit to  
2148 collect the assessments, and the office may provide such  
2149 assistance to the corporation it deems appropriate. If the  
2150 corporation is unable to collect an assessment from any  
2151 assessable insurer, the uncollected assessments shall be levied  
2152 as an additional assessment against the assessable insurers and  
2153 any assessable insurer required to pay an additional assessment  
2154 as a result of such failure to pay shall have a cause of action  
2155 against such nonpaying assessable insurer. Assessments shall be  
2156 included as an appropriate factor in the making of rates. The  
2157 failure of a surplus lines agent to collect and remit any



2158 regular or emergency assessment levied by the corporation is  
2159 considered to be a violation of s. 626.936 and subjects the  
2160 surplus lines agent to the penalties provided in that section.

2161 2. The governing body of any unit of local government, any  
2162 residents of which are insured by the corporation, may issue  
2163 bonds as defined in s. 125.013 or s. 166.101 from time to time  
2164 to fund an assistance program, in conjunction with the  
2165 corporation, for the purpose of defraying deficits of the  
2166 corporation. In order to avoid needless and indiscriminate  
2167 proliferation, duplication, and fragmentation of such assistance  
2168 programs, any unit of local government, any residents of which  
2169 are insured by the corporation, may provide for the payment of  
2170 losses, regardless of whether or not the losses occurred within  
2171 or outside of the territorial jurisdiction of the local  
2172 government. Revenue bonds under this subparagraph may not be  
2173 issued until validated pursuant to chapter 75, unless a state of  
2174 emergency is declared by executive order or proclamation of the  
2175 Governor pursuant to s. 252.36 making such findings as are  
2176 necessary to determine that it is in the best interests of, and  
2177 necessary for, the protection of the public health, safety, and  
2178 general welfare of residents of this state and declaring it an  
2179 essential public purpose to permit certain municipalities or  
2180 counties to issue such bonds as will permit relief to claimants  
2181 and policyholders of the corporation. Any such unit of local  
2182 government may enter into such contracts with the corporation  
2183 and with any other entity created pursuant to this subsection as  
2184 are necessary to carry out this paragraph. Any bonds issued  
2185 under this subparagraph shall be payable from and secured by  
2186 moneys received by the corporation from emergency assessments



402706

2187 under sub-subparagraph (b)3.c. ~~(b)3.e.~~, and assigned and pledged  
2188 to or on behalf of the unit of local government for the benefit  
2189 of the holders of such bonds. The funds, credit, property, and  
2190 taxing power of the state or of the unit of local government may  
2191 ~~shall~~ not be pledged for the payment of such bonds.

2192 3.a. The corporation shall adopt one or more programs  
2193 subject to approval by the office for the reduction of both new  
2194 and renewal writings in the corporation. Beginning January 1,  
2195 2008, any program the corporation adopts for the payment of  
2196 bonuses to an insurer for each risk the insurer removes from the  
2197 corporation shall comply with s. 627.3511(2) and may not exceed  
2198 the amount referenced in s. 627.3511(2) for each risk removed.  
2199 The corporation may consider any prudent and not unfairly  
2200 discriminatory approach to reducing corporation writings, and  
2201 may adopt a credit against assessment liability or other  
2202 liability that provides an incentive for insurers to take risks  
2203 out of the corporation and to keep risks out of the corporation  
2204 by maintaining or increasing voluntary writings in counties or  
2205 areas in which corporation risks are highly concentrated and a  
2206 program to provide a formula under which an insurer voluntarily  
2207 taking risks out of the corporation by maintaining or increasing  
2208 voluntary writings will be relieved wholly or partially from  
2209 assessments ~~under sub-subparagraph (b)3.a.~~ However, any "take-  
2210 out bonus" or payment to an insurer must be conditioned on the  
2211 property being insured for at least 5 years by the insurer,  
2212 unless canceled or nonrenewed by the policyholder. If the policy  
2213 is canceled or nonrenewed by the policyholder before the end of  
2214 the 5-year period, the amount of the take-out bonus must be  
2215 prorated for the time period the policy was insured. When the



2216 corporation enters into a contractual agreement for a take-out  
2217 plan, the producing agent of record of the corporation policy is  
2218 entitled to retain any unearned commission on such policy, and  
2219 the insurer shall either:

2220 (I) Pay to the producing agent of record of the policy, for  
2221 the first year, an amount which is the greater of the insurer's  
2222 usual and customary commission for the type of policy written or  
2223 a policy fee equal to the usual and customary commission of the  
2224 corporation; or

2225 (II) Offer to allow the producing agent of record of the  
2226 policy to continue servicing the policy for a period of not less  
2227 than 1 year and offer to pay the agent the insurer's usual and  
2228 customary commission for the type of policy written. If the  
2229 producing agent is unwilling or unable to accept appointment by  
2230 the new insurer, the new insurer shall pay the agent in  
2231 accordance with sub-sub-subparagraph (I).

2232 b. Any credit or exemption from regular assessments adopted  
2233 under this subparagraph shall last no longer than the 3 years  
2234 following the cancellation or expiration of the policy by the  
2235 corporation. With the approval of the office, the board may  
2236 extend such credits for an additional year if the insurer  
2237 guarantees an additional year of renewability for all policies  
2238 removed from the corporation, or for 2 additional years if the  
2239 insurer guarantees 2 additional years of renewability for all  
2240 policies so removed.

2241 c. There shall be no credit, limitation, exemption, or  
2242 deferment from emergency assessments to be collected from  
2243 policyholders pursuant to sub-subparagraph (b)3.c. ~~sub-~~  
2244 ~~subparagraph (b)3.c. or sub-subparagraph (b)5.c.~~



402706

2245           4. ~~The plan shall provide for the deferment, in whole or in~~  
2246 ~~part, of the assessment of an assessable insurer, other than an~~  
2247 ~~emergency assessment collected from policyholders pursuant to~~  
2248 ~~sub-subparagraph (b)3.c. or sub-subparagraph (b)5.c., if the~~  
2249 ~~office finds that payment of the assessment would endanger or~~  
2250 ~~impair the solvency of the insurer. In the event an assessment~~  
2251 ~~against an assessable insurer is deferred in whole or in part,~~  
2252 ~~the amount by which such assessment is deferred may be assessed~~  
2253 ~~against the other assessable insurers in a manner consistent~~  
2254 ~~with the basis for assessments set forth in paragraph (b).~~

2255           5. Effective July 1, 2007, in order to evaluate the costs  
2256 and benefits of approved take-out plans, if the corporation pays  
2257 a bonus or other payment to an insurer for an approved take-out  
2258 plan, it shall maintain a record of the address or such other  
2259 identifying information on the property or risk removed in order  
2260 to track if and when the property or risk is later insured by  
2261 the corporation.

2262           ~~5.6.~~ Any policy taken out, assumed, or removed from the  
2263 corporation is, as of the effective date of the take-out,  
2264 assumption, or removal, direct insurance issued by the insurer  
2265 and not by the corporation, even if the corporation continues to  
2266 service the policies. This subparagraph applies to policies of  
2267 the corporation and not policies taken out, assumed, or removed  
2268 from any other entity.

2269           ~~6.7.~~ For a policy taken out, assumed, or removed from the  
2270 corporation, the insurer may, for a period of no more than 3  
2271 years, continue to use any of the corporation's policy forms or  
2272 endorsements that apply to the policy taken out, removed, or  
2273 assumed without obtaining approval from the office for use of



402706

2274 such policy form or endorsement.

2275 (v)1. Effective July 1, 2002, policies of the Residential  
2276 Property and Casualty Joint Underwriting Association become  
2277 policies of the corporation. All obligations, rights, assets and  
2278 liabilities of the association, including bonds, note and debt  
2279 obligations, and the financing documents pertaining to them  
2280 become those of the corporation as of July 1, 2002. The  
2281 corporation is not required to issue endorsements or  
2282 certificates of assumption to insureds during the remaining term  
2283 of in-force transferred policies.

2284 2. Effective July 1, 2002, policies of the Florida  
2285 Windstorm Underwriting Association are transferred to the  
2286 corporation and become policies of the corporation. All  
2287 obligations, rights, assets, and liabilities of the association,  
2288 including bonds, note and debt obligations, and the financing  
2289 documents pertaining to them are transferred to and assumed by  
2290 the corporation on July 1, 2002. The corporation is not required  
2291 to issue endorsements or certificates of assumption to insureds  
2292 during the remaining term of in-force transferred policies.

2293 3. The Florida Windstorm Underwriting Association and the  
2294 Residential Property and Casualty Joint Underwriting Association  
2295 shall take all actions necessary to further evidence the  
2296 transfers and provide the documents and instruments of further  
2297 assurance as may reasonably be requested by the corporation for  
2298 that purpose. The corporation shall execute assumptions and  
2299 instruments as the trustees or other parties to the financing  
2300 documents of the Florida Windstorm Underwriting Association or  
2301 the Residential Property and Casualty Joint Underwriting  
2302 Association may reasonably request to further evidence the





402706

2303 transfers and assumptions, which transfers and assumptions,  
2304 however, are effective on the date provided under this paragraph  
2305 whether or not, and regardless of the date on which, the  
2306 assumptions or instruments are executed by the corporation.  
2307 ~~Subject to the relevant financing documents pertaining to their~~  
2308 ~~outstanding bonds, notes, indebtedness, or other financing~~  
2309 ~~obligations, the moneys, investments, receivables, choses in~~  
2310 ~~action, and other intangibles of the Florida Windstorm~~  
2311 ~~Underwriting Association shall be credited to the coastal~~  
2312 ~~account of the corporation, and those of the personal lines~~  
2313 ~~residential coverage account and the commercial lines~~  
2314 ~~residential coverage account of the Residential Property and~~  
2315 ~~Casualty Joint Underwriting Association shall be credited to the~~  
2316 ~~personal lines account and the commercial lines account,~~  
2317 ~~respectively, of the corporation.~~

2318 4. Effective July 1, 2002, a new applicant for property  
2319 insurance coverage who would otherwise have been eligible for  
2320 coverage in the Florida Windstorm Underwriting Association is  
2321 eligible for coverage from the corporation as provided in this  
2322 subsection.

2323 5. The transfer of all policies, obligations, rights,  
2324 assets, and liabilities from the Florida Windstorm Underwriting  
2325 Association to the corporation and the renaming of the  
2326 Residential Property and Casualty Joint Underwriting Association  
2327 as the corporation does not affect the coverage with respect to  
2328 covered policies as defined in s. 215.555(2)(c) provided to  
2329 these entities by the Florida Hurricane Catastrophe Fund. ~~The~~  
2330 ~~coverage provided by the fund to the Florida Windstorm~~  
2331 ~~Underwriting Association based on its exposures as of June 30,~~



402706

2332 ~~2002, and each June 30 thereafter, unless the corporation has~~  
2333 ~~established the Citizens account, shall be redesignated as~~  
2334 ~~coverage for the coastal account of the corporation.~~  
2335 ~~Notwithstanding any other provision of law, the coverage~~  
2336 ~~provided by the fund to the Residential Property and Casualty~~  
2337 ~~Joint Underwriting Association based on its exposures as of June~~  
2338 ~~30, 2002, and each June 30 thereafter, unless the corporation~~  
2339 ~~has established the Citizens account, shall be transferred to~~  
2340 ~~the personal lines account and the commercial lines account of~~  
2341 ~~the corporation. Notwithstanding any other provision of law, the~~  
2342 ~~coastal account, unless the corporation has established the~~  
2343 ~~Citizens account, shall be treated, for all Florida Hurricane~~  
2344 ~~Catastrophe Fund purposes, as if it were a separate~~  
2345 ~~participating insurer with its own exposures, reimbursement~~  
2346 ~~premium, and loss reimbursement. Likewise, the personal lines~~  
2347 ~~and commercial lines accounts, unless the corporation has~~  
2348 ~~established the Citizens account, shall be viewed together, for~~  
2349 ~~all fund purposes, as if the two accounts were one and represent~~  
2350 ~~a single, separate participating insurer with its own exposures,~~  
2351 ~~reimbursement premium, and loss reimbursement. The coverage~~  
2352 ~~provided by the fund to the corporation shall constitute and~~  
2353 ~~operate as a full transfer of coverage from the Florida~~  
2354 ~~Windstorm Underwriting Association and Residential Property and~~  
2355 ~~Casualty Joint Underwriting Association to the corporation.~~

2356 (w) Notwithstanding any other provision of law:

2357 1. The pledge or sale of, the lien upon, and the security  
2358 interest in any rights, revenues, or other assets of the  
2359 corporation created or purported to be created pursuant to any  
2360 financing documents to secure any bonds or other indebtedness of



402706

2361 the corporation shall be and remain valid and enforceable,  
2362 notwithstanding the commencement of and during the continuation  
2363 of, and after, any rehabilitation, insolvency, liquidation,  
2364 bankruptcy, receivership, conservatorship, reorganization, or  
2365 similar proceeding against the corporation under the laws of  
2366 this state.

2367 2. The proceeding does not relieve the corporation of its  
2368 obligation, or otherwise affect its ability to perform its  
2369 obligation, to continue to collect, or levy and collect,  
2370 assessments, policyholder surcharges or other surcharges ~~under~~  
2371 ~~sub-subparagraph (b) 3. j.~~, or any other rights, revenues, or  
2372 other assets of the corporation pledged pursuant to any  
2373 financing documents.

2374 3. Each such pledge or sale of, lien upon, and security  
2375 interest in, including the priority of such pledge, lien, or  
2376 security interest, any such assessments, policyholder surcharges  
2377 or other surcharges, or other rights, revenues, or other assets  
2378 which are collected, or levied and collected, after the  
2379 commencement of and during the pendency of, or after, any such  
2380 proceeding shall continue unaffected by such proceeding. As used  
2381 in this subsection, the term "financing documents" means any  
2382 agreement or agreements, instrument or instruments, or other  
2383 document or documents now existing or hereafter created  
2384 evidencing any bonds or other indebtedness of the corporation or  
2385 pursuant to which any such bonds or other indebtedness has been  
2386 or may be issued and pursuant to which any rights, revenues, or  
2387 other assets of the corporation are pledged or sold to secure  
2388 the repayment of such bonds or indebtedness, together with the  
2389 payment of interest on such bonds or such indebtedness, or the



2390 payment of any other obligation or financial product, as defined  
2391 in the plan of operation of the corporation related to such  
2392 bonds or indebtedness.

2393         4. Any such pledge or sale of assessments, revenues,  
2394 contract rights, or other rights or assets of the corporation  
2395 shall constitute a lien and security interest, or sale, as the  
2396 case may be, that is immediately effective and attaches to such  
2397 assessments, revenues, or contract rights or other rights or  
2398 assets, whether or not imposed or collected at the time the  
2399 pledge or sale is made. Any such pledge or sale is effective,  
2400 valid, binding, and enforceable against the corporation or other  
2401 entity making such pledge or sale, and valid and binding against  
2402 and superior to any competing claims or obligations owed to any  
2403 other person or entity, including policyholders in this state,  
2404 asserting rights in any such assessments, revenues, or contract  
2405 rights or other rights or assets to the extent set forth in and  
2406 in accordance with the terms of the pledge or sale contained in  
2407 the applicable financing documents, whether or not any such  
2408 person or entity has notice of such pledge or sale and without  
2409 the need for any physical delivery, recordation, filing, or  
2410 other action.

2411         5. As long as the corporation has any bonds outstanding,  
2412 the corporation may not file a voluntary petition under chapter  
2413 9 of the federal Bankruptcy Code or such corresponding chapter  
2414 or sections as may be in effect, from time to time, and a public  
2415 officer or any organization, entity, or other person may not  
2416 authorize the corporation to be or become a debtor under chapter  
2417 9 of the federal Bankruptcy Code or such corresponding chapter  
2418 or sections as may be in effect, from time to time, during any



402706

2419 such period.

2420           6. If ordered by a court of competent jurisdiction, the  
2421 corporation may assume policies or otherwise provide coverage  
2422 for policyholders of an insurer placed in liquidation under  
2423 chapter 631, under such forms, rates, terms, and conditions as  
2424 the corporation deems appropriate, subject to approval by the  
2425 office.

2426           (x)1. The following records of the corporation are  
2427 confidential and exempt from the provisions of s. 119.07(1) and  
2428 s. 24(a), Art. I of the State Constitution:

2429           a. Underwriting files, except that a policyholder or an  
2430 applicant shall have access to his or her own underwriting  
2431 files. Confidential and exempt underwriting file records may  
2432 also be released to other governmental agencies upon written  
2433 request and demonstration of need; such records held by the  
2434 receiving agency remain confidential and exempt as provided  
2435 herein.

2436           b. Claims files, until termination of all litigation and  
2437 settlement of all claims arising out of the same incident,  
2438 although portions of the claims files may remain exempt, as  
2439 otherwise provided by law. Confidential and exempt claims file  
2440 records may be released to other governmental agencies upon  
2441 written request and demonstration of need; such records held by  
2442 the receiving agency remain confidential and exempt as provided  
2443 herein.

2444           c. Records obtained or generated by an internal auditor  
2445 pursuant to a routine audit, until the audit is completed, or if  
2446 the audit is conducted as part of an investigation, until the  
2447 investigation is closed or ceases to be active. An investigation



402706

2448 is considered "active" while the investigation is being  
2449 conducted with a reasonable, good faith belief that it could  
2450 lead to the filing of administrative, civil, or criminal  
2451 proceedings.

2452 d. Matters reasonably encompassed in privileged attorney-  
2453 client communications.

2454 e. Proprietary information licensed to the corporation  
2455 under contract and the contract provides for the confidentiality  
2456 of such proprietary information.

2457 f. All information relating to the medical condition or  
2458 medical status of a corporation employee which is not relevant  
2459 to the employee's capacity to perform his or her duties, except  
2460 as otherwise provided in this paragraph. Information that is  
2461 exempt shall include, but is not limited to, information  
2462 relating to workers' compensation, insurance benefits, and  
2463 retirement or disability benefits.

2464 g. Upon an employee's entrance into the employee assistance  
2465 program, a program to assist any employee who has a behavioral  
2466 or medical disorder, substance abuse problem, or emotional  
2467 difficulty that affects the employee's job performance, all  
2468 records relative to that participation shall be confidential and  
2469 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I  
2470 of the State Constitution, except as otherwise provided in s.  
2471 112.0455(11).

2472 h. Information relating to negotiations for financing,  
2473 reinsurance, depopulation, or contractual services, until the  
2474 conclusion of the negotiations.

2475 i. Minutes of closed meetings regarding underwriting files,  
2476 and minutes of closed meetings regarding an open claims file



402706

2477 until termination of all litigation and settlement of all claims  
2478 with regard to that claim, except that information otherwise  
2479 confidential or exempt by law shall be redacted.

2480         2. If an authorized insurer is considering underwriting a  
2481 risk insured by the corporation, relevant underwriting files and  
2482 confidential claims files may be released to the insurer  
2483 provided the insurer agrees in writing, notarized and under  
2484 oath, to maintain the confidentiality of such files. If a file  
2485 is transferred to an insurer, that file is no longer a public  
2486 record because it is not held by an agency subject to the  
2487 provisions of the public records law. Underwriting files and  
2488 confidential claims files may also be released to staff and the  
2489 board of governors of the market assistance plan established  
2490 pursuant to s. 627.3515, who must retain the confidentiality of  
2491 such files, except such files may be released to authorized  
2492 insurers that are considering assuming the risks to which the  
2493 files apply, provided the insurer agrees in writing, notarized  
2494 and under oath, to maintain the confidentiality of such files.  
2495 Finally, the corporation or the board or staff of the market  
2496 assistance plan may make the following information obtained from  
2497 underwriting files and confidential claims files available to an  
2498 entity that has obtained a permit to become an authorized  
2499 insurer, a reinsurer that may provide reinsurance under s.  
2500 624.610, a licensed reinsurance broker, a licensed rating  
2501 organization, a modeling company, a licensed surplus lines  
2502 agent, or a licensed general lines insurance agent: name,  
2503 address, and telephone number of the residential property owner  
2504 or insured; location of the risk; rating information; loss  
2505 history; and policy type. The receiving person must retain the



402706

2506 confidentiality of the information received and may use the  
2507 information only for the purposes of developing a take-out plan  
2508 or a rating plan to be submitted to the office for approval or  
2509 otherwise analyzing the underwriting of a risk or risks insured  
2510 by the corporation on behalf of the private insurance market. A  
2511 licensed surplus lines agent or licensed general lines insurance  
2512 agent may not use such information for the direct solicitation  
2513 of policyholders.

2514 3. A policyholder who has filed suit against the  
2515 corporation has the right to discover the contents of his or her  
2516 own claims file to the same extent that discovery of such  
2517 contents would be available from a private insurer in litigation  
2518 as provided by the Florida Rules of Civil Procedure, the Florida  
2519 Evidence Code, and other applicable law. Pursuant to subpoena, a  
2520 third party has the right to discover the contents of an  
2521 insured's or applicant's underwriting or claims file to the same  
2522 extent that discovery of such contents would be available from a  
2523 private insurer by subpoena as provided by the Florida Rules of  
2524 Civil Procedure, the Florida Evidence Code, and other applicable  
2525 law, and subject to any confidentiality protections requested by  
2526 the corporation and agreed to by the seeking party or ordered by  
2527 the court. The corporation may release confidential underwriting  
2528 and claims file contents and information as it deems necessary  
2529 and appropriate to underwrite or service insurance policies and  
2530 claims, subject to any confidentiality protections deemed  
2531 necessary and appropriate by the corporation.

2532 4. Portions of meetings of the corporation are exempt from  
2533 the provisions of s. 286.011 and s. 24(b), Art. I of the State  
2534 Constitution wherein confidential underwriting files or





402706

2535 confidential open claims files are discussed. All portions of  
2536 corporation meetings which are closed to the public shall be  
2537 recorded by a court reporter. The court reporter shall record  
2538 the times of commencement and termination of the meeting, all  
2539 discussion and proceedings, the names of all persons present at  
2540 any time, and the names of all persons speaking. No portion of  
2541 any closed meeting shall be off the record. Subject to the  
2542 provisions hereof and s. 119.07(1)(d)-(f), the court reporter's  
2543 notes of any closed meeting shall be retained by the corporation  
2544 for a minimum of 5 years. A copy of the transcript, less any  
2545 exempt matters, of any closed meeting wherein claims are  
2546 discussed shall become public as to individual claims after  
2547 settlement of the claim.

2548 (z) In enacting the provisions of this section, the  
2549 Legislature recognizes that both the Florida Windstorm  
2550 Underwriting Association and the Residential Property and  
2551 Casualty Joint Underwriting Association have entered into  
2552 financing arrangements that obligate each entity to service its  
2553 debts and maintain the capacity to repay funds secured under  
2554 these financing arrangements. It is the intent of the  
2555 Legislature that nothing in this section be construed to  
2556 compromise, diminish, or interfere with the rights of creditors  
2557 under such financing arrangements. It is further the intent of  
2558 the Legislature to preserve the obligations of the Florida  
2559 Windstorm Underwriting Association and Residential Property and  
2560 Casualty Joint Underwriting Association with regard to  
2561 outstanding financing arrangements, with such obligations  
2562 passing entirely and unchanged to the corporation and,  
2563 specifically, to the Citizens ~~applicable~~ account ~~of the~~



2564 ~~corporation~~. So long as any bonds, notes, indebtedness, or other  
2565 financing obligations of the Florida Windstorm Underwriting  
2566 Association or the Residential Property and Casualty Joint  
2567 Underwriting Association are outstanding, under the terms of the  
2568 financing documents pertaining to them, the governing board of  
2569 the corporation shall have and shall exercise the authority to  
2570 levy, charge, collect, and receive all premiums, assessments,  
2571 surcharges, charges, revenues, and receipts that the  
2572 associations had authority to levy, charge, collect, or receive  
2573 under the provisions of subsection (2) and this subsection,  
2574 respectively, as they existed on January 1, 2002, to provide  
2575 moneys, without exercise of the authority provided by this  
2576 subsection, in at least the amounts, and by the times, as would  
2577 be provided under those former provisions of subsection (2) or  
2578 this subsection, respectively, so that the value, amount, and  
2579 collectability of any assets, revenues, or revenue source  
2580 pledged or committed to, or any lien thereon securing such  
2581 outstanding bonds, notes, indebtedness, or other financing  
2582 obligations will not be diminished, impaired, or adversely  
2583 affected by the amendments made by this act and to permit  
2584 compliance with all provisions of financing documents pertaining  
2585 to such bonds, notes, indebtedness, or other financing  
2586 obligations, or the security or credit enhancement for them, and  
2587 any reference in this subsection to bonds, notes, indebtedness,  
2588 financing obligations, or similar obligations, of the  
2589 corporation shall include like instruments or contracts of the  
2590 Florida Windstorm Underwriting Association and the Residential  
2591 Property and Casualty Joint Underwriting Association to the  
2592 extent not inconsistent with the provisions of the financing



402706

2593 documents pertaining to them.

2594 (ii) The corporation shall revise the programs adopted  
2595 pursuant to sub-subparagraph (q)3.a. for personal lines  
2596 residential policies to maximize policyholder options and  
2597 encourage increased participation by insurers and agents. After  
2598 January 1, 2017, a policy may not be taken out of the  
2599 corporation unless the provisions of this paragraph are met.

2600 1. The corporation must publish a periodic schedule of  
2601 cycles during which an insurer may identify, and notify the  
2602 corporation of, policies that the insurer is requesting to take  
2603 out. A request must include a description of the coverage  
2604 offered and an estimated premium and must be submitted to the  
2605 corporation in a form and manner prescribed by the corporation.

2606 2. The corporation must maintain and make available to the  
2607 agent of record a consolidated list of all insurers requesting  
2608 to take out a policy. The list must include a description of the  
2609 coverage offered and the estimated premium for each take-out  
2610 request.

2611 3. If a policyholder receives a take-out offer from an  
2612 authorized insurer, the risk is no longer eligible for coverage  
2613 with the corporation unless the premium for coverage from the  
2614 authorized insurer is more than 20 percent greater than the  
2615 renewal premium for comparable coverage from the corporation  
2616 pursuant to sub-subparagraph (c)5.d. ~~(e)5.e.~~ This subparagraph  
2617 applies to take-out offers that are part of an application to  
2618 participate in depopulation submitted to the office on or after  
2619 January 1, 2023. This subparagraph only applies to a policy that  
2620 covers a primary residence.

2621 4. The corporation must provide written notice to the



402706

2622 policyholder and the agent of record regarding all insurers  
2623 requesting to take out the policy. The notice must be in a  
2624 format prescribed by the corporation and include, for each take-  
2625 out offer:

- 2626 a. The amount of the estimated premium;
- 2627 b. A description of the coverage; and
- 2628 c. A comparison of the estimated premium and coverage  
2629 offered by the insurer to the estimated premium and coverage  
2630 provided by the corporation.

2631 (nn) The corporation may share its claims data with the  
2632 National Insurance Crime Bureau, provided that the National  
2633 Insurance Crime Bureau agrees to maintain the confidentiality of  
2634 such documents as otherwise provided for in paragraph (x).

2635 (7) TRADEMARKS, COPYRIGHTS, OR PATENTS.—Notwithstanding any  
2636 other law, the corporation is authorized, in its own name, to:

2637 (a) Perform all things necessary to secure letters of  
2638 patent, copyrights, or trademarks on any work products and  
2639 enforce its rights therein.

2640 (b) License, lease, assign, or otherwise give written  
2641 consent to any person, firm, or corporation for the manufacture  
2642 or use thereof, on a royalty basis or for such other  
2643 consideration as the corporation deems proper.

2644 (c) Take any action necessary, including legal action, to  
2645 protect trademarks, copyrights, or patents against improper or  
2646 unlawful use or infringement.

2647 (d) Enforce the collection of any sums due the corporation  
2648 for the manufacture or use thereof by any other party.

2649 (e) Sell any of its trademarks, copyrights, or patents and  
2650 execute all instruments necessary to consummate any such sale.



2651  
2652  
2653  
2654  
2655  
2656  
2657  
2658  
2659  
2660  
2661  
2662  
2663  
2664  
2665  
2666  
2667  
2668  
2669  
2670  
2671  
2672  
2673  
2674  
2675  
2676  
2677  
2678  
2679

(f) Do all other acts necessary and proper for the execution of powers and duties herein conferred upon the corporation in order to administer this subsection.

Section 3. Subsection (3) and paragraphs (d), (e), and (f) of subsection (6) of section 627.3511, Florida Statutes, are amended to read:

627.3511 Depopulation of Citizens Property Insurance Corporation.—

(3) EXEMPTION FROM DEFICIT ASSESSMENTS.—

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

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

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

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

~~If the removal of risks is accomplished through assumption of obligations with respect to in-force policies, the corporation~~



402706

2680 ~~shall pay to the assuming insurer all unearned premium with~~  
2681 ~~respect to such policies less any policy acquisition costs~~  
2682 ~~agreed to by the corporation and assuming insurer. The term~~  
2683 ~~"policy acquisition costs" is defined as costs of issuance of~~  
2684 ~~the policy by the corporation which includes agent commissions,~~  
2685 ~~servicing company fees, and premium tax. This paragraph does not~~  
2686 ~~apply to an insurer that, at any time within 5 years before~~  
2687 ~~removing the risks, had a market share in excess of 0.1 percent~~  
2688 ~~of the statewide aggregate gross direct written premium for any~~  
2689 ~~line of property insurance, or to an affiliate of such an~~  
2690 ~~insurer. This paragraph does not apply unless either at least 40~~  
2691 ~~percent of the risks removed from the corporation are located in~~  
2692 ~~Miami Dade, Broward, and Palm Beach Counties, or at least 30~~  
2693 ~~percent of the risks removed from the corporation are located in~~  
2694 ~~such counties and an additional 50 percent of the risks removed~~  
2695 ~~from the corporation are located in other coastal counties.~~

2696 ~~(b) An insurer that first wrote personal lines residential~~  
2697 ~~property coverage in this state on or after July 1, 1994, is~~  
2698 ~~exempt from regular deficit assessments imposed pursuant to s.~~  
2699 ~~627.351(6)(b)3.a., but not emergency assessments collected from~~  
2700 ~~policyholders pursuant to s. 627.351(6)(b)3.e., of the Citizens~~  
2701 ~~Property Insurance Corporation until the earlier of the~~  
2702 ~~following:~~

2703 ~~1. The end of the calendar year in which it first wrote 0.5~~  
2704 ~~percent or more of the statewide aggregate direct written~~  
2705 ~~premium for any line of residential property coverage; or~~

2706 ~~2. December 31, 1997, or December 31 of the third year in~~  
2707 ~~which it wrote such coverage in this state, whichever is later.~~

2708 ~~(c) Other than an insurer that is exempt under paragraph~~



402706

2709 ~~(b), an insurer that in any calendar year increases its total~~  
2710 ~~structure exposure subject to wind coverage by 25 percent or~~  
2711 ~~more over its exposure for the preceding calendar year is, with~~  
2712 ~~respect to that year, exempt from deficit assessments imposed~~  
2713 ~~pursuant to s. 627.351(6) (b)3.a., but not emergency assessments~~  
2714 ~~collected from policyholders pursuant to s. 627.351(6) (b)3.e.,~~  
2715 ~~of the Citizens Property Insurance Corporation attributable to~~  
2716 ~~such increase in exposure.~~

2717 ~~(d)~~ Any exemption or credit from regular assessments  
2718 authorized by this section shall last no longer than 3 years  
2719 following the cancellation or expiration of the policy by the  
2720 corporation. With the approval of the office, the board may  
2721 extend such credits for an additional year if the insurer  
2722 guarantees an additional year of renewability for all policies  
2723 removed from the corporation, or for 2 additional years if the  
2724 insurer guarantees 2 additional years of renewability for all  
2725 policies so removed.

2726 (6) COMMERCIAL RESIDENTIAL TAKE-OUT PLANS.-

2727 ~~(d) The calculation of an insurer's regular assessment~~  
2728 ~~liability under s. 627.351(6) (b)3.a., but not emergency~~  
2729 ~~assessments collected from policyholders pursuant to s.~~  
2730 ~~627.351(6) (b)3.e., shall, with respect to commercial residential~~  
2731 ~~policies removed from the corporation under an approved take-out~~  
2732 ~~plan, exclude such removed policies for the succeeding 3 years,~~  
2733 ~~as follows:~~

2734 1. ~~In the first year following removal of the policies, the~~  
2735 ~~policies are excluded from the calculation to the extent of 100~~  
2736 ~~percent.~~

2737 2. ~~In the second year following removal of the policies,~~



402706

2738 ~~the policies are excluded from the calculation to the extent of~~  
2739 ~~75 percent.~~

2740 ~~3. In the third year following removal of the policies, the~~  
2741 ~~policies are excluded from the calculation to the extent of 50~~  
2742 ~~percent.~~

2743 ~~(c) An insurer that first wrote commercial residential~~  
2744 ~~property coverage in this state on or after June 1, 1996, is~~  
2745 ~~exempt from regular assessments under s. 627.351(6)(b)3.a., but~~  
2746 ~~not emergency assessments collected from policyholders pursuant~~  
2747 ~~to s. 627.351(6)(b)3.e., with respect to commercial residential~~  
2748 ~~policies until the earlier of:~~

2749 ~~1. The end of the calendar year in which such insurer first~~  
2750 ~~wrote 0.5 percent or more of the statewide aggregate direct~~  
2751 ~~written premium for commercial residential property coverage; or~~

2752 ~~2. December 31 of the third year in which such insurer~~  
2753 ~~wrote commercial residential property coverage in this state.~~

2754 ~~(f) An insurer that is not otherwise exempt from regular~~  
2755 ~~assessments under s. 627.351(6)(b)3.a. with respect to~~  
2756 ~~commercial residential policies is, for any calendar year in~~  
2757 ~~which such insurer increased its total commercial residential~~  
2758 ~~hurricane exposure by 25 percent or more over its exposure for~~  
2759 ~~the preceding calendar year, exempt from regular assessments~~  
2760 ~~under s. 627.351(6)(b)3.a., but not emergency assessments~~  
2761 ~~collected from policyholders pursuant to s. 627.351(6)(b)3.e.,~~  
2762 ~~attributable to such increased exposure.~~

2763 Section 4. Subsections (5), (6), and (7) of section  
2764 627.3518, Florida Statutes, are amended to read:

2765 627.3518 Citizens Property Insurance Corporation  
2766 policyholder eligibility clearinghouse program.—The purpose of





2767 this section is to provide a framework for the corporation to  
2768 implement a clearinghouse program by January 1, 2014.

2769 (5) Notwithstanding s. 627.3517, any applicant for new  
2770 coverage from the corporation is not eligible for coverage from  
2771 the corporation if provided an offer of coverage from an  
2772 authorized insurer through the program at a premium that is at  
2773 or below the eligibility threshold for applicants for new  
2774 coverage of a primary residence established in s.  
2775 627.351(6)(c)5.a., or for applicants for new coverage of a risk  
2776 that is not a primary residence established in s.  
2777 627.351(6)(c)5.b. Whenever an offer of coverage for a personal  
2778 lines risk is received for a policyholder of the corporation at  
2779 renewal from an authorized insurer through the program which is  
2780 at or below the eligibility threshold for primary residences of  
2781 policyholders of the corporation established in s.  
2782 627.351(6)(c)5.a., or the eligibility threshold for risks that  
2783 are not primary residences of policyholders of the corporation  
2784 established in s. 627.351(6)(c)5.b., the risk is not eligible  
2785 for coverage with the corporation. In the event an offer of  
2786 coverage for a new applicant is received from an authorized  
2787 insurer through the program, and the premium offered exceeds the  
2788 eligibility threshold for applicants for new coverage of a  
2789 primary residence established in s. 627.351(6)(c)5.a., or the  
2790 eligibility threshold for applicants for new coverage on a risk  
2791 that is not a primary residence established in s.  
2792 627.351(6)(c)5.b., the applicant or insured may elect to accept  
2793 such coverage, or may elect to accept or continue coverage with  
2794 the corporation. In the event an offer of coverage for a  
2795 personal lines risk is received from an authorized insurer at



2796 renewal through the program, and the premium offered exceeds the  
2797 eligibility threshold for primary residences of policyholders of  
2798 the corporation established in s. 627.351(6)(c)5.a., or exceeds  
2799 the eligibility threshold for risks that are not primary  
2800 residences of policyholders of the corporation established in s.  
2801 627.351(6)(c)5.b., the insured may elect to accept such  
2802 coverage, or may elect to accept or continue coverage with the  
2803 corporation. Section 627.351(6)(c)5.a.(I) and b.(I) does not  
2804 apply to an offer of coverage from an authorized insurer  
2805 obtained through the program. As used in this subsection, the  
2806 term "primary residence" has the same meaning as in s.  
2807 627.351(6)(c)2.a.

2808 (6) Independent insurance agents submitting new  
2809 applications for coverage or that are the agent of record on a  
2810 renewal policy submitted to the program:

2811 (a) Are granted and must maintain ownership and the  
2812 exclusive use of expirations, records, or other written or  
2813 electronic information directly related to such applications or  
2814 renewals written through the corporation or through an insurer  
2815 participating in the program, notwithstanding s.  
2816 627.351(6)(c)5.a.(I)(B) and (II)(B) or s.  
2817 627.351(6)(c)5.b.(I)(B) and (II)(B). Such ownership is granted  
2818 for as long as the insured remains with the agency or until sold  
2819 or surrendered in writing by the agent. Contracts with the  
2820 corporation or required by the corporation must not amend,  
2821 modify, interfere with, or limit such rights of ownership. Such  
2822 expirations, records, or other written or electronic information  
2823 may be used to review an application, issue a policy, or for any  
2824 other purpose necessary for placing such business through the



402706

2825 program.

2826 (b) May not be required to be appointed by any insurer  
2827 participating in the program for policies written solely through  
2828 the program, notwithstanding the provisions of s. 626.112.

2829 (c) May accept an appointment from any insurer  
2830 participating in the program.

2831 (d) May enter into either a standard or limited agency  
2832 agreement with the insurer, at the insurer's option.

2833

2834 Applicants ineligible for coverage in accordance with subsection  
2835 (5) remain ineligible if their independent agent is unwilling or  
2836 unable to enter into a standard or limited agency agreement with  
2837 an insurer participating in the program.

2838 (7) Exclusive agents submitting new applications for  
2839 coverage or that are the agent of record on a renewal policy  
2840 submitted to the program:

2841 (a) Must maintain ownership and the exclusive use of  
2842 expirations, records, or other written or electronic information  
2843 directly related to such applications or renewals written  
2844 through the corporation or through an insurer participating in  
2845 the program, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and  
2846 (II)(B) or s. 627.351(6)(c)5.b.(I)(B) and (II)(B). Contracts  
2847 with the corporation or required by the corporation must not  
2848 amend, modify, interfere with, or limit such rights of  
2849 ownership. Such expirations, records, or other written or  
2850 electronic information may be used to review an application,  
2851 issue a policy, or for any other purpose necessary for placing  
2852 such business through the program.

2853 (b) May not be required to be appointed by any insurer



2854 participating in the program for policies written solely through  
2855 the program, notwithstanding the provisions of s. 626.112.

2856 (c) Must only facilitate the placement of an offer of  
2857 coverage from an insurer whose limited servicing agreement is  
2858 approved by that exclusive agent's exclusive insurer.

2859 (d) May enter into a limited servicing agreement with the  
2860 insurer making an offer of coverage, and only after the  
2861 exclusive agent's insurer has approved the limited servicing  
2862 agreement terms. The exclusive agent's insurer must approve a  
2863 limited service agreement for the program for any insurer for  
2864 which it has approved a service agreement for other purposes.

2865  
2866 Applicants ineligible for coverage in accordance with subsection  
2867 (5) remain ineligible if their exclusive agent is unwilling or  
2868 unable to enter into a standard or limited agency agreement with  
2869 an insurer making an offer of coverage to that applicant.

2870 Section 5. Except as otherwise expressly provided in this  
2871 act and except for this section, which shall take effect upon  
2872 becoming a law, this act shall take effect July 1, 2024.

2873  
2874 ===== T I T L E A M E N D M E N T =====

2875 And the title is amended as follows:

2876 Delete everything before the enacting clause  
2877 and insert:

2878 A bill to be entitled  
2879 An act relating to Citizens Property Insurance  
2880 Corporation; amending s. 627.351, F.S.; revising a  
2881 requirement for certain flood insurance; revising  
2882 circumstances under which certain insurers'



2883 associations must levy market equalization surcharges  
2884 on policyholders; deleting obsolete language;  
2885 providing that certain accounts for Citizens Property  
2886 Insurance Corporation revenues, assets, liabilities,  
2887 losses, and expenses are now maintained as the  
2888 Citizens account; revising the requirements for  
2889 certain coverages by the corporation; requiring the  
2890 inclusion of quota share primary insurance in certain  
2891 policies; deleting provisions relating to legislative  
2892 goals; conforming provisions to changes made by the  
2893 act; revising provisions relating to deficits in  
2894 certain accounts; revising the definition of the term  
2895 "assessments"; deleting provisions relating to  
2896 surcharges and regular assessments upon determination  
2897 of projected deficits; deleting provisions relating to  
2898 funds available to the corporation as sources of  
2899 revenue and bonds; deleting definitions; deleting  
2900 provisions relating to the duties of the Florida  
2901 Surplus Lines Service Office; deleting provisions  
2902 relating to disposition of excess amounts of  
2903 assessments and surcharges; defining the terms  
2904 "approved surplus lines insurer" and "primary  
2905 residence"; providing applicability of certain  
2906 provisions relating to personal lines residential  
2907 risks coverage by the corporation; providing that  
2908 certain personal lines residential risks are not  
2909 eligible for any policy issued by the corporation;  
2910 providing an exception; providing that certain  
2911 personal lines residential risks are not eligible for



2912 coverage with the corporation under certain  
2913 circumstances; providing an exception; providing that  
2914 certain risks are eligible for certain standard  
2915 policies; providing that certain risks are eligible  
2916 for certain basic policies; requiring the  
2917 determination of the type of policy to be provided on  
2918 the basis of certain standards and practices;  
2919 providing that certain policyholders do not remain  
2920 eligible for coverage from the corporation; requiring  
2921 the insurer to pay the producing agent of record a  
2922 certain amount or make certain offers under certain  
2923 circumstances; providing that the producing agent of  
2924 record is entitled to retain certain commission on the  
2925 policy; requiring the insurer to pay the producing  
2926 agent of record a certain amount or make certain  
2927 offers under certain circumstances; revising the  
2928 corporation's plan of operation; revising the required  
2929 statements from applicants for coverage; revising the  
2930 duties of the executive director of the corporation;  
2931 authorizing the executive director to assign and  
2932 appoint designees; deleting an applicability provision  
2933 relating to bond requirements; deleting provisions  
2934 relating to certain insurer assessment deferrals;  
2935 deleting provisions relating to the intangibles of and  
2936 coverage by the Florida Windstorm Underwriting  
2937 Association and the corporation coastal account;  
2938 authorizing the corporation and certain persons to  
2939 make specified information obtained from underwriting  
2940 files and confidential claims files available to



402706

2941 licensed surplus lines agents; prohibiting such agents  
2942 from using such information for specified purposes;  
2943 providing applicability of provisions relating to  
2944 take-out offers that are part of applications to  
2945 participate in depopulation; authorizing the  
2946 corporation to share its claims data with a specified  
2947 entity; authorizing the corporation to take certain  
2948 actions relating to trademarks, copyrights, or  
2949 patents; amending s. 627.3511, F.S.; conforming  
2950 provisions to changes made by the act; conforming  
2951 cross-references; amending s. 627.3518, F.S.; revising  
2952 eligibility requirements for policyholders at renewal  
2953 and for applicants for new coverage; defining the term  
2954 "primary residence"; providing effective dates.