

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Esposito offered the following:

2  
3 **Amendment (with title amendment)**

4 Remove lines 1345-3089 and insert:

5 (I) "Approved surplus lines insurer" means an eligible  
6 surplus lines insurer that:

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

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

11 (C) Applies to the office to participate in the take-out  
12 process to offer coverage to applicants for new coverage from

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13 the corporation or current policyholders of the corporation  
14 through a take-out plan approved by the office;

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

19 (E) Provides data to the office related to coverage and  
20 rates in a format adopted by the commission.

21 (II) "Eligible risks" means personal lines residential and  
22 commercial lines residential risks that meet the underwriting  
23 criteria of the corporation and are located in areas that were  
24 eligible for coverage by the Florida Windstorm Underwriting  
25 Association on January 1, 2002.

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

30 (IV)-(I) "Quota share primary insurance" means an  
31 arrangement in which the primary hurricane coverage of an  
32 eligible risk is provided in specified percentages by the  
33 corporation and an authorized insurer. The corporation and  
34 authorized insurer are each solely responsible for a specified  
35 percentage of hurricane coverage of an eligible risk as set  
36 forth in a quota share primary insurance agreement between the  
37 corporation and an authorized insurer and the insurance

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38 contract. The responsibility of the corporation or authorized  
39 insurer to pay its specified percentage of hurricane losses of  
40 an eligible risk, as set forth in the agreement, may not be  
41 altered by the inability of the other party to pay its specified  
42 percentage of losses. Eligible risks that are provided hurricane  
43 coverage through a quota share primary insurance arrangement  
44 must be provided policy forms that set forth the obligations of  
45 the corporation and authorized insurer under the arrangement,  
46 clearly specify the percentages of quota share primary insurance  
47 provided by the corporation and authorized insurer, and  
48 conspicuously and clearly state that the authorized insurer and  
49 the corporation may not be held responsible beyond their  
50 specified percentage of coverage of hurricane losses.

51 ~~(II) "Eligible risks" means personal lines residential and~~  
52 ~~commercial lines residential risks that meet the underwriting~~  
53 ~~criteria of the corporation and are located in areas that were~~  
54 ~~eligible for coverage by the Florida Windstorm Underwriting~~  
55 ~~Association on January 1, 2002.~~

56 b. The corporation may enter into quota share primary  
57 insurance agreements with authorized insurers at corporation  
58 coverage levels of 90 percent and 50 percent.

59 c. If the corporation determines that additional coverage  
60 levels are necessary to maximize participation in quota share  
61 primary insurance agreements by authorized insurers, the  
62 corporation may establish additional coverage levels. However,

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63 the corporation's quota share primary insurance coverage level  
64 may not exceed 90 percent.

65 d. Any quota share primary insurance agreement entered  
66 into between an authorized insurer and the corporation must  
67 provide for a uniform specified percentage of coverage of  
68 hurricane losses, by county or territory as set forth by the  
69 corporation board, for all eligible risks of the authorized  
70 insurer covered under the agreement.

71 e. Any quota share primary insurance agreement entered  
72 into between an authorized insurer and the corporation is  
73 subject to review and approval by the office. However, such  
74 agreement shall be authorized only as to insurance contracts  
75 entered into between an authorized insurer and an insured who is  
76 already insured by the corporation for wind coverage.

77 f. For all eligible risks covered under quota share  
78 primary insurance agreements, the exposure and coverage levels  
79 for both the corporation and authorized insurers shall be  
80 reported by the corporation to the Florida Hurricane Catastrophe  
81 Fund. For all policies of eligible risks covered under such  
82 agreements, the corporation and the authorized insurer must  
83 maintain complete and accurate records for the purpose of  
84 exposure and loss reimbursement audits as required by fund  
85 rules. The corporation and the authorized insurer shall each  
86 maintain duplicate copies of policy declaration pages and  
87 supporting claims documents.

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88 g. The corporation board shall establish in its plan of  
89 operation standards for quota share agreements which ensure that  
90 there is no discriminatory application among insurers as to the  
91 terms of the agreements, pricing of the agreements, incentive  
92 provisions if any, and consideration paid for servicing policies  
93 or adjusting claims.

94 h. The quota share primary insurance agreement between the  
95 corporation and an authorized insurer must set forth the  
96 specific terms under which coverage is provided, including, but  
97 not limited to, the sale and servicing of policies issued under  
98 the agreement by the insurance agent of the authorized insurer  
99 producing the business, the reporting of information concerning  
100 eligible risks, the payment of premium to the corporation, and  
101 arrangements for the adjustment and payment of hurricane claims  
102 incurred on eligible risks by the claims adjuster and personnel  
103 of the authorized insurer. Entering into a quota sharing  
104 insurance agreement between the corporation and an authorized  
105 insurer is voluntary and at the discretion of the authorized  
106 insurer.

107 3. May provide that the corporation may employ or  
108 otherwise contract with individuals or other entities to provide  
109 administrative or professional services that may be appropriate  
110 to effectuate the plan. The corporation may borrow funds by  
111 issuing bonds or by incurring other indebtedness, and shall have  
112 other powers reasonably necessary to effectuate the requirements

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113 of this subsection, including, without limitation, the power to  
114 issue bonds and incur other indebtedness in order to refinance  
115 outstanding bonds or other indebtedness. The corporation may  
116 seek judicial validation of its bonds or other indebtedness  
117 under chapter 75. The corporation may issue bonds or incur other  
118 indebtedness, or have bonds issued on its behalf by a unit of  
119 local government pursuant to subparagraph (q)2. in the absence  
120 of a hurricane or other weather-related event, upon a  
121 determination by the corporation, subject to approval by the  
122 office, that such action would enable it to efficiently meet the  
123 financial obligations of the corporation and that such  
124 financings are reasonably necessary to effectuate the  
125 requirements of this subsection. The corporation may take all  
126 actions needed to facilitate tax-free status for such bonds or  
127 indebtedness, including formation of trusts or other affiliated  
128 entities. The corporation may pledge assessments, projected  
129 recoveries from the Florida Hurricane Catastrophe Fund, other  
130 reinsurance recoverables, policyholder surcharges and other  
131 surcharges, and other funds available to the corporation as  
132 security for bonds or other indebtedness. In recognition of s.  
133 10, Art. I of the State Constitution, prohibiting the impairment  
134 of obligations of contracts, it is the intent of the Legislature  
135 that no action be taken whose purpose is to impair any bond  
136 indenture or financing agreement or any revenue source committed  
137 by contract to such bond or other indebtedness.

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138 4. Must require that the corporation operate subject to  
139 the supervision and approval of a board of governors consisting  
140 of nine individuals who are residents of this state and who are  
141 from different geographical areas of the state, one of whom is  
142 appointed by the Governor and serves solely to advocate on  
143 behalf of the consumer. The appointment of a consumer  
144 representative by the Governor is deemed to be within the scope  
145 of the exemption provided in s. 112.313(7) (b) and is in addition  
146 to the appointments authorized under sub-subparagraph a.

147 a. The Governor, the Chief Financial Officer, the  
148 President of the Senate, and the Speaker of the House of  
149 Representatives shall each appoint two members of the board. At  
150 least one of the two members appointed by each appointing  
151 officer must have demonstrated expertise in insurance and be  
152 deemed to be within the scope of the exemption provided in s.  
153 112.313(7) (b). The Chief Financial Officer shall designate one  
154 of the appointees as chair. All board members serve at the  
155 pleasure of the appointing officer. All members of the board are  
156 subject to removal at will by the officers who appointed them.  
157 All board members, including the chair, must be appointed to  
158 serve for 3-year terms beginning annually on a date designated  
159 by the plan. However, for the first term beginning on or after  
160 July 1, 2009, each appointing officer shall appoint one member  
161 of the board for a 2-year term and one member for a 3-year term.  
162 A board vacancy shall be filled for the unexpired term by the

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163 appointing officer. The Chief Financial Officer shall appoint a  
164 technical advisory group to provide information and advice to  
165 the board in connection with the board's duties under this  
166 subsection. The executive director and senior managers of the  
167 corporation shall be engaged by the board and serve at the  
168 pleasure of the board. Any executive director appointed on or  
169 after July 1, 2006, is subject to confirmation by the Senate.  
170 The executive director is responsible for employing other staff  
171 as the corporation may require, subject to review and  
172 concurrence by the board.

173       b. The board shall create a Market Accountability Advisory  
174 Committee to assist the corporation in developing awareness of  
175 its rates and its customer and agent service levels in  
176 relationship to the voluntary market insurers writing similar  
177 coverage.

178       (I) The members of the advisory committee consist of the  
179 following 11 persons, one of whom must be elected chair by the  
180 members of the committee: four representatives, one appointed by  
181 the Florida Association of Insurance Agents, one by the Florida  
182 Association of Insurance and Financial Advisors, one by the  
183 Professional Insurance Agents of Florida, and one by the Latin  
184 American Association of Insurance Agencies; three  
185 representatives appointed by the insurers with the three highest  
186 voluntary market share of residential property insurance  
187 business in the state; one representative from the Office of

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188 Insurance Regulation; one consumer appointed by the board who is  
189 insured by the corporation at the time of appointment to the  
190 committee; one representative appointed by the Florida  
191 Association of Realtors; and one representative appointed by the  
192 Florida Bankers Association. All members shall be appointed to  
193 3-year terms and may serve for consecutive terms.

194 (II) The committee shall report to the corporation at each  
195 board meeting on insurance market issues which may include rates  
196 and rate competition with the voluntary market; service,  
197 including policy issuance, claims processing, and general  
198 responsiveness to policyholders, applicants, and agents; and  
199 matters relating to depopulation.

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

202 a. Subject to s. 627.3517, with respect to personal lines  
203 residential risks that are primary residences, if the risk is  
204 offered coverage from an authorized insurer at the insurer's  
205 approved rate under a standard policy including wind coverage  
206 or, if consistent with the insurer's underwriting rules as filed  
207 with the office, a basic policy including wind coverage, for a  
208 new application to the corporation for coverage, the risk is not  
209 eligible for any policy issued by the corporation unless the  
210 premium for coverage from the authorized insurer is more than 20  
211 percent greater than the premium for comparable coverage from  
212 the corporation. Whenever an offer of coverage for a personal

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213 lines residential risk that is a primary residence is received  
214 for a policyholder of the corporation at renewal from an  
215 authorized insurer, if the offer is equal to or less than the  
216 corporation's renewal premium for comparable coverage, the risk  
217 is not eligible for coverage with the corporation for policies  
218 that renew before April 1, 2023; for policies that renew on or  
219 after that date, the risk is not eligible for coverage with the  
220 corporation unless the premium for coverage from the authorized  
221 insurer is more than 20 percent greater than the corporation's  
222 renewal premium for comparable coverage. If the risk is not able  
223 to obtain such offer, the risk is eligible for a standard policy  
224 including wind coverage or a basic policy including wind  
225 coverage issued by the corporation; however, if the risk could  
226 not be insured under a standard policy including wind coverage  
227 regardless of market conditions, the risk is eligible for a  
228 basic policy including wind coverage unless rejected under  
229 subparagraph 8. The corporation shall determine the type of  
230 policy to be provided on the basis of objective standards  
231 specified in the underwriting manual and based on generally  
232 accepted underwriting practices. A policyholder removed from the  
233 corporation through an assumption agreement does not remain  
234 eligible for coverage from the corporation after the end of the  
235 policy term. However, any policy removed from the corporation  
236 through an assumption agreement remains on the corporation's

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237 policy forms through the end of the policy term. This sub-  
238 subparagraph applies only to risks that are primary residences.

239 (I) If the risk accepts an offer of coverage through the  
240 market assistance plan or through a mechanism established by the  
241 corporation other than a plan established by s. 627.3518, before  
242 a policy is issued to the risk by the corporation or during the  
243 first 30 days of coverage by the corporation, and the producing  
244 agent who submitted the application to the plan or to the  
245 corporation is not currently appointed by the insurer, the  
246 insurer shall:

247 (A) Pay to the producing agent of record of the policy for  
248 the first year, an amount that is the greater of the insurer's  
249 usual and customary commission for the type of policy written or  
250 a fee equal to the usual and customary commission of the  
251 corporation; or

252 (B) Offer to allow the producing agent of record of the  
253 policy to continue servicing the policy for at least 1 year and  
254 offer to pay the agent the greater of the insurer's or the  
255 corporation's usual and customary commission for the type of  
256 policy written.

257  
258 If the producing agent is unwilling or unable to accept  
259 appointment, the new insurer shall pay the agent in accordance  
260 with sub-sub-sub-subparagraph (A).

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

265 (A) Pay to the producing agent of record, for the first  
266 year, an amount that is the greater of the insurer's usual and  
267 customary commission for the type of policy written or a fee  
268 equal to the usual and customary commission of the corporation;  
269 or

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

274  
275 If the producing agent is unwilling or unable to accept  
276 appointment, the new insurer shall pay the agent in accordance  
277 with sub-sub-sub-subparagraph (A).

278 b. Subject to s. 627.3517, with respect to personal lines  
279 residential risks that are not primary residences, if the risk  
280 is offered coverage from an authorized insurer at the insurer's  
281 approved rate or from an approved surplus lines insurer at the  
282 rate approved by the office as part of such surplus lines  
283 insurer's take-out plan for a new application to the corporation  
284 for coverage, the risk is not eligible for any policy issued by  
285 the corporation unless the premium for coverage from the

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286 authorized insurer or approved surplus lines insurer is more  
287 than 20 percent greater than the premium for comparable coverage  
288 from the corporation. Whenever an offer of coverage for a  
289 personal lines residential risk that is not a primary residence  
290 is received for a policyholder of the corporation at renewal  
291 from an authorized insurer at the insurer's approved rate or an  
292 approved surplus lines insurer at the rate approved by the  
293 office as part of such insurer's take-out plan, the risk is not  
294 eligible for coverage with the corporation unless the premium  
295 for coverage from the authorized insurer or approved surplus  
296 lines insurer is more than 20 percent greater than the  
297 corporation's renewal premium for comparable coverage for  
298 policies that renew on or after July 1, 2024. If the risk is not  
299 able to obtain such offer, the risk is eligible for a standard  
300 policy, including wind coverage or a basic policy including wind  
301 coverage issued by the corporation. If the risk could not be  
302 insured under a standard policy including wind coverage  
303 regardless of market conditions, the risk is eligible for a  
304 basic policy including wind coverage unless rejected under  
305 subparagraph 8. The corporation shall determine the type of  
306 policy to be provided on the basis of objective standards  
307 specified in the underwriting manual and based on generally  
308 accepted underwriting practices. A policyholder removed from the  
309 corporation through an assumption agreement does not remain  
310 eligible for coverage from the corporation after the end of the

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311 policy term. However, any policy removed from the corporation  
312 through an assumption agreement remains on the corporation's  
313 policy forms through the end of the policy term.

314 (I) If the risk accepts an offer of coverage through the  
315 market assistance plan or through a mechanism established by the  
316 corporation other than a plan established by s. 627.3518, before  
317 a policy is issued to the risk by the corporation or during the  
318 first 30 days of coverage by the corporation, and the producing  
319 agent who submitted the application to the plan or to the  
320 corporation is not currently appointed by the insurer, the  
321 insurer must:

322 (A) Pay to the producing agent of record of the policy,  
323 for the first year, an amount that is the greater of the  
324 insurer's usual and customary commission for the type of policy  
325 written or a fee equal to the usual and customary commission of  
326 the corporation; or

327 (B) Offer to allow the producing agent of record of the  
328 policy to continue servicing the policy for at least 1 year and  
329 offer to pay the agent the greater of the insurer's or the  
330 corporation's usual and customary commission for the type of  
331 policy written.

332  
333 If the producing agent is unwilling or unable to accept  
334 appointment, the new insurer must pay the agent in accordance  
335 with sub-sub-sub-subparagraph (A).

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

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

344 or

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

349  
350 If the producing agent is unwilling or unable to accept  
351 appointment, the new insurer shall pay the agent in accordance  
352 with sub-sub-sub-subparagraph (A).

353 ~~c.b.~~ With respect to commercial lines residential risks,  
354 for a new application to the corporation for coverage, if the  
355 risk is offered coverage under a policy including wind coverage  
356 from an authorized insurer at its approved rate, the risk is not  
357 eligible for a policy issued by the corporation unless the  
358 premium for coverage from the authorized insurer is more than 20  
359 percent greater than the premium for comparable coverage from  
360 the corporation. Whenever an offer of coverage for a commercial

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361 lines residential risk is received for a policyholder of the  
362 corporation at renewal from an authorized insurer, the risk is  
363 not eligible for coverage with the corporation unless the  
364 premium for coverage from the authorized insurer is more than 20  
365 percent greater than the corporation's renewal premium for  
366 comparable coverage. If the risk is not able to obtain any such  
367 offer, the risk is eligible for a policy including wind coverage  
368 issued by the corporation. A policyholder removed from the  
369 corporation through an assumption agreement remains eligible for  
370 coverage from the corporation until the end of the policy term.  
371 However, any policy removed from the corporation through an  
372 assumption agreement remains on the corporation's policy forms  
373 through the end of the policy term.

374 (I) If the risk accepts an offer of coverage through the  
375 market assistance plan or through a mechanism established by the  
376 corporation other than a plan established by s. 627.3518, before  
377 a policy is issued to the risk by the corporation or during the  
378 first 30 days of coverage by the corporation, and the producing  
379 agent who submitted the application to the plan or the  
380 corporation is not currently appointed by the insurer, the  
381 insurer shall:

382 (A) Pay to the producing agent of record of the policy,  
383 for the first year, an amount that is the greater of the  
384 insurer's usual and customary commission for the type of policy

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385 written or a fee equal to the usual and customary commission of  
386 the corporation; or

387 (B) Offer to allow the producing agent of record of the  
388 policy to continue servicing the policy for at least 1 year and  
389 offer to pay the agent the greater of the insurer's or the  
390 corporation's usual and customary commission for the type of  
391 policy written.

392

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

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

400 (A) Pay to the producing agent of record, for the first  
401 year, an amount that is the greater of the insurer's usual and  
402 customary commission for the type of policy written or a fee  
403 equal to the usual and customary commission of the corporation;  
404 or

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

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

413 ~~d.e.~~ For purposes of determining comparable coverage under  
414 sub-subparagraphs a. and c. ~~b.~~, the comparison must be based on  
415 those forms and coverages that are reasonably comparable. The  
416 corporation may rely on a determination of comparable coverage  
417 and premium made by the producing agent who submits the  
418 application to the corporation, made in the agent's capacity as  
419 the corporation's agent. For purposes of comparing the premium  
420 for comparable coverage under sub-subparagraphs a. and c. ~~b.~~,  
421 premium includes any surcharge or assessment that is actually  
422 applied to such policy. A comparison may be made solely of the  
423 premium with respect to the main building or structure only on  
424 the following basis: the same Coverage A or other building  
425 limits; the same percentage hurricane deductible that applies on  
426 an annual basis or that applies to each hurricane for commercial  
427 residential property; the same percentage of ordinance and law  
428 coverage, if the same limit is offered by both the corporation  
429 and the authorized insurer; the same mitigation credits, to the  
430 extent the same types of credits are offered both by the  
431 corporation and the authorized insurer; the same method for loss  
432 payment, such as replacement cost or actual cash value, if the  
433 same method is offered both by the corporation and the  
434 authorized insurer in accordance with underwriting rules; and

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435 any other form or coverage that is reasonably comparable as  
436 determined by the board. If an application is submitted to the  
437 corporation for wind-only coverage on a risk that is located in  
438 an area eligible for coverage by the Florida Windstorm  
439 Underwriting Association, as that area was defined on January 1,  
440 2002, the premium for the corporation's wind-only policy plus  
441 the premium for the ex-wind policy that is offered by an  
442 authorized insurer to the applicant must be compared to the  
443 premium for multiperil coverage offered by an authorized  
444 insurer, subject to the standards for comparison specified in  
445 this subparagraph. If the corporation or the applicant requests  
446 from the authorized insurer a breakdown of the premium of the  
447 offer by types of coverage so that a comparison may be made by  
448 the corporation or its agent and the authorized insurer refuses  
449 or is unable to provide such information, the corporation may  
450 treat the offer as not being an offer of coverage from an  
451 authorized insurer at the insurer's approved rate. However,  
452 notwithstanding any other provision of law, this sub-  
453 subparagraph does not apply to a policy that does not cover a  
454 primary residence.

455 e. If the risk could not be insured under a standard  
456 policy including wind coverage regardless of market conditions,  
457 the risk is eligible for a basic policy including wind coverage  
458 unless rejected under subparagraph 8. The corporation shall  
459 determine the type of policy to be provided on the basis of

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460 objective standards specified in the underwriting manual and  
461 based on generally accepted underwriting practices. A  
462 policyholder removed from the corporation through an assumption  
463 agreement does not remain eligible for coverage from the  
464 corporation after the end of the policy term for a period.  
465 However, any policy removed from the corporation through an  
466 assumption agreement remains on the corporation's policy forms  
467 through the end of the policy term.

468 (I) If the risk accepts an offer of coverage through the  
469 market assistance plan or through a mechanism established by the  
470 corporation other than a plan established by s. 627.3518, before  
471 a policy is issued to the risk by the corporation or during the  
472 first 30 days of coverage by the corporation, and the producing  
473 agent who submitted the application to the plan or to the  
474 corporation is not currently appointed by the insurer, the  
475 insurer shall:

476 (A) Pay to the producing agent of record of the policy,  
477 for the first year, an amount that is the greater of the  
478 insurer's usual and customary commission for the type of policy  
479 written or a fee equal to the usual and customary commission of  
480 the corporation; or

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

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484 corporation's usual and customary commission for the type of  
485 policy written.

486  
487 If the producing agent is unwilling or unable to accept  
488 appointment, the new insurer shall pay the agent in accordance  
489 with sub-sub-sub-subparagraph (A).

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

494 (A) Pay to the producing agent of record, for the first  
495 year, an amount that is the greater of the insurer's usual and  
496 customary commission for the type of policy written or a fee  
497 equal to the usual and customary commission of the corporation;  
498 or

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

503  
504 If the producing agent is unwilling or unable to accept  
505 appointment, the new insurer shall pay the agent in accordance  
506 with sub-sub-sub-subparagraph (A).

507 6. Must include rules for classifications of risks and  
508 rates.

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509           7. Must provide that if premium and investment income:  
510           ~~a. for the Citizens an account which are attributable to a~~  
511 particular calendar year are in excess of projected losses and  
512 expenses for the Citizens account attributable to that year,  
513 such excess shall be held in surplus in the Citizens account.  
514 Such surplus must be available to defray deficits in the  
515 Citizens ~~that~~ account as to future years and used for that  
516 purpose before assessing assessable insurers and assessable  
517 insureds as to any calendar year; ~~or~~  
518           ~~b. For the Citizens account, if established by the~~  
519 ~~corporation, which are attributable to a particular calendar~~  
520 ~~year are in excess of projected losses and expenses for the~~  
521 ~~Citizens account attributable to that year, such excess shall be~~  
522 ~~held in surplus in the Citizens account. Such surplus must be~~  
523 ~~available to defray deficits in the Citizens account as to~~  
524 ~~future years and used for that purpose before assessing~~  
525 ~~assessable insurers and assessable insureds as to any calendar~~  
526 ~~year.~~  
527           8. Must provide objective criteria and procedures to be  
528 uniformly applied to all applicants in determining whether an  
529 individual risk is so hazardous as to be uninsurable. In making  
530 this determination and in establishing the criteria and  
531 procedures, the following must be considered:

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532 a. Whether the likelihood of a loss for the individual  
533 risk is substantially higher than for other risks of the same  
534 class; and

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

537  
538 The acceptance or rejection of a risk by the corporation shall  
539 be construed as the private placement of insurance, and the  
540 provisions of chapter 120 do not apply.

541 9. Must provide that the corporation make its best efforts  
542 to procure catastrophe reinsurance at reasonable rates, to cover  
543 its projected 100-year probable maximum loss as determined by  
544 the board of governors. If catastrophe reinsurance is not  
545 available at reasonable rates, the corporation need not purchase  
546 it, but the corporation shall include the costs of reinsurance  
547 to cover its projected 100-year probable maximum loss in its  
548 rate calculations even if it does not purchase catastrophe  
549 reinsurance.

550 10. ~~The policies issued by the corporation~~ Must provide in  
551 the policies issued by the corporation that if the corporation  
552 or the market assistance plan obtains an offer from an  
553 authorized insurer to cover the risk at its approved rates, the  
554 risk is no longer eligible for renewal through the corporation,  
555 except as otherwise provided in this subsection.

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556           11. ~~Corporation policies and applications~~ Must include in  
557 the corporation policies and applications a notice that the  
558 corporation policy could, under this section, be replaced with a  
559 policy issued by an authorized insurer which does not provide  
560 coverage identical to the coverage provided by the corporation.  
561 The notice must also specify that acceptance of corporation  
562 coverage creates a conclusive presumption that the applicant or  
563 policyholder is aware of this potential.

564           12. May establish, subject to approval by the office,  
565 different eligibility requirements and operational procedures  
566 for any line or type of coverage for any specified county or  
567 area if the board determines that such changes are justified due  
568 to the voluntary market being sufficiently stable and  
569 competitive in such area or for such line or type of coverage  
570 and that consumers who, in good faith, are unable to obtain  
571 insurance through the voluntary market through ordinary methods  
572 continue to have access to coverage from the corporation. If  
573 coverage is sought in connection with a real property transfer,  
574 the requirements and procedures may not provide an effective  
575 date of coverage later than the date of the closing of the  
576 transfer as established by the transferor, the transferee, and,  
577 if applicable, the lender.

578           ~~13. Must provide that:~~

579           ~~a. With respect to the coastal account, any assessable~~  
580 ~~insurer with a surplus as to policyholders of \$25 million or~~

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581 ~~less writing 25 percent or more of its total countrywide~~  
582 ~~property insurance premiums in this state may petition the~~  
583 ~~office, within the first 90 days of each calendar year, to~~  
584 ~~qualify as a limited apportionment company. A regular assessment~~  
585 ~~levied by the corporation on a limited apportionment company for~~  
586 ~~a deficit incurred by the corporation for the coastal account~~  
587 ~~may be paid to the corporation on a monthly basis as the~~  
588 ~~assessments are collected by the limited apportionment company~~  
589 ~~from its insureds, but a limited apportionment company must~~  
590 ~~begin collecting the regular assessments not later than 90 days~~  
591 ~~after the regular assessments are levied by the corporation, and~~  
592 ~~the regular assessments must be paid in full within 15 months~~  
593 ~~after being levied by the corporation. A limited apportionment~~  
594 ~~company shall collect from its policyholders any emergency~~  
595 ~~assessment imposed under sub-subparagraph (b)3.e. The plan must~~  
596 ~~provide that, if the office determines that any regular~~  
597 ~~assessment will result in an impairment of the surplus of a~~  
598 ~~limited apportionment company, the office may direct that all or~~  
599 ~~part of such assessment be deferred as provided in subparagraph~~  
600 ~~(q)4. However, an emergency assessment to be collected from~~  
601 ~~policyholders under sub-subparagraph (b)3.e. may not be limited~~  
602 ~~or deferred; or~~

603 ~~b. With respect to the Citizens account, if established by~~  
604 ~~the corporation pursuant to sub-subparagraph (b)2.b., any~~  
605 ~~assessable insurer with a surplus as to policyholders of \$25~~

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606 ~~million or less and writing 25 percent or more of its total~~  
607 ~~countrywide property insurance premiums in this state may~~  
608 ~~petition the office, within the first 90 days of each calendar~~  
609 ~~year, to qualify as a limited apportionment company. A limited~~  
610 ~~apportionment company shall collect from its policyholders any~~  
611 ~~emergency assessment imposed under sub-subparagraph (b) 5.c. An~~  
612 ~~emergency assessment to be collected from policyholders under~~  
613 ~~sub-subparagraph (b) 5.c. may not be limited or deferred.~~

614 13.14. Must provide that the corporation appoint as its  
615 licensed agents only those agents who throughout such  
616 appointments also hold an appointment as defined in s. 626.015  
617 by at least three insurers ~~an insurer~~ who are ~~is~~ authorized to  
618 write and are ~~is~~ actually writing or renewing personal lines  
619 residential property coverage, commercial residential property  
620 coverage, or commercial nonresidential property coverage within  
621 the state.

622 14.15. Must provide a premium payment plan option to its  
623 policyholders which, at a minimum, allows for quarterly and  
624 semiannual payment of premiums. A monthly payment plan may, but  
625 is not required to, be offered.

626 15.16. Must limit coverage on mobile homes or manufactured  
627 homes built before 1994 to actual cash value of the dwelling  
628 rather than replacement costs of the dwelling.

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629        ~~16.17.~~ Must provide coverage for manufactured or mobile  
630 home dwellings. Such coverage must also include the following  
631 attached structures:

632            a. Screened enclosures that are aluminum framed or  
633 screened enclosures that are not covered by the same or  
634 substantially the same materials as those of the primary  
635 dwelling;

636            b. Carports that are aluminum or carports that are not  
637 covered by the same or substantially the same materials as those  
638 of the primary dwelling; and

639            c. Patios that have a roof covering that is constructed of  
640 materials that are not the same or substantially the same  
641 materials as those of the primary dwelling.

642

643 The corporation shall make available a policy for mobile homes  
644 or manufactured homes for a minimum insured value of at least  
645 \$3,000.

646        ~~17.18.~~ May provide such limits of coverage as the board  
647 determines, consistent with the requirements of this subsection.

648        ~~18.19.~~ May require commercial property to meet specified  
649 hurricane mitigation construction features as a condition of  
650 eligibility for coverage.

651        ~~19.20.~~ Must provide that new or renewal policies issued by  
652 the corporation on or after January 1, 2012, which cover  
653 sinkhole loss do not include coverage for any loss to

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654 appurtenant structures, driveways, sidewalks, decks, or patios  
655 that are directly or indirectly caused by sinkhole activity. The  
656 corporation shall exclude such coverage using a notice of  
657 coverage change, which may be included with the policy renewal,  
658 and not by issuance of a notice of nonrenewal of the excluded  
659 coverage upon renewal of the current policy.

660 ~~20.a.21.a. As of January 1, 2012, unless the Citizens~~  
661 ~~account has been established pursuant to sub-subparagraph~~  
662 ~~(b)2.b.,~~ Must require that the agent obtain from an applicant  
663 for coverage from the corporation the following an  
664 acknowledgment signed by the applicant, which includes, at a  
665 minimum, the following statement:

## ACKNOWLEDGMENT OF POTENTIAL SURCHARGE

## AND ASSESSMENT LIABILITY:

666  
667  
668 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE  
669 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A  
670 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,  
671 MY POLICY COULD BE SUBJECT TO SURCHARGES AND ASSESSMENTS, WHICH  
672 WILL BE DUE AND PAYABLE UPON RENEWAL, CANCELLATION, OR  
673 TERMINATION OF THE POLICY, AND THAT THE SURCHARGES AND  
674 ASSESSMENTS COULD BE AS HIGH AS 25 ~~45~~ PERCENT OF MY PREMIUM, OR  
675 A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA LEGISLATURE.

676 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER  
677 SURCHARGE, WHICH COULD BE AS HIGH AS 15 ~~45~~ PERCENT OF MY  
678 PREMIUM, BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND

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679 THAT TO BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY  
680 TO OBTAIN PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR  
681 RENEWING COVERAGE WITH CITIZENS. I UNDERSTAND THAT PRIVATE  
682 MARKET INSURANCE RATES ARE REGULATED AND APPROVED BY THE STATE.

683 3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY  
684 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER  
685 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE  
686 FLORIDA LEGISLATURE.

687 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE  
688 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE  
689 STATE OF FLORIDA.

690 ~~b. The corporation must require, if it has established the~~  
691 ~~Citizens account pursuant to sub-subparagraph (b)2.b., that the~~  
692 ~~agent obtain from an applicant for coverage from the corporation~~  
693 ~~the following acknowledgment signed by the applicant, which~~  
694 ~~includes, at a minimum, the following statement:~~

695 ~~ACKNOWLEDGMENT OF POTENTIAL SURCHARGE~~  
696 ~~AND ASSESSMENT LIABILITY:~~

697 ~~1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE~~  
698 ~~CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A~~  
699 ~~DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,~~  
700 ~~MY POLICY COULD BE SUBJECT TO SURCHARGES AND ASSESSMENTS, WHICH~~  
701 ~~WILL BE DUE AND PAYABLE UPON RENEWAL, CANCELLATION, OR~~  
702 ~~TERMINATION OF THE POLICY, AND THAT THE SURCHARGES AND~~

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

705 ~~2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER~~  
706 ~~SURCHARGE, WHICH COULD BE AS HIGH AS 15 PERCENT OF MY PREMIUM,~~  
707 ~~BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO~~  
708 ~~BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN~~  
709 ~~PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE~~  
710 ~~WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES~~  
711 ~~ARE REGULATED AND APPROVED BY THE STATE.~~

712 ~~3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY~~  
713 ~~ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER~~  
714 ~~INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE~~  
715 ~~FLORIDA LEGISLATURE.~~

716 ~~4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE~~  
717 ~~CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE~~  
718 ~~STATE OF FLORIDA.~~

719 ~~b.e.~~ The corporation shall maintain, in electronic format  
720 or otherwise, a copy of the applicant's signed acknowledgment  
721 and provide a copy of the statement to the policyholder as part  
722 of the first renewal after the effective date of sub-  
723 subparagraph a. ~~or sub-subparagraph b., as applicable.~~

724 ~~c.d.~~ The signed acknowledgment form creates a conclusive  
725 presumption that the policyholder understood and accepted his or  
726 her potential surcharge and assessment liability as a  
727 policyholder of the corporation.

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728 (d)1. All prospective employees for senior management  
729 positions, as defined by the plan of operation, are subject to  
730 background checks as a prerequisite for employment. The office  
731 shall conduct the background checks pursuant to ss. 624.34,  
732 624.404(3), and 628.261.

733 2. On or before July 1 of each year, employees of the  
734 corporation must sign and submit a statement attesting that they  
735 do not have a conflict of interest, as defined in part III of  
736 chapter 112. As a condition of employment, all prospective  
737 employees must sign and submit to the corporation a conflict-of-  
738 interest statement.

739 3. The executive director, senior managers, and members of  
740 the board of governors are subject to part III of chapter 112,  
741 including, but not limited to, the code of ethics and public  
742 disclosure and reporting of financial interests, pursuant to s.  
743 112.3145. For purposes of applying part III of chapter 112 to  
744 activities of the executive director, senior managers, and  
745 members of the board of governors, those persons shall be  
746 considered public officers or employees and the corporation  
747 shall be considered their agency. Notwithstanding s.  
748 112.3143(2), a board member may not vote on any measure that  
749 would inure to his or her special private gain or loss; that he  
750 or she knows would inure to the special private gain or loss of  
751 any principal by whom he or she is retained or to the parent  
752 organization or subsidiary of a corporate principal by which he

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753 or she is retained, other than an agency as defined in s.  
754 112.312; or that he or she knows would inure to the special  
755 private gain or loss of a relative or business associate of the  
756 public officer. Before the vote is taken, such member shall  
757 publicly state to the assembly the nature of his or her interest  
758 in the matter from which he or she is abstaining from voting  
759 and, within 15 days after the vote occurs, disclose the nature  
760 of his or her interest as a public record in a memorandum filed  
761 with the person responsible for recording the minutes of the  
762 meeting, who shall incorporate the memorandum in the minutes.  
763 Senior managers and board members are also required to file such  
764 disclosures with the Commission on Ethics and the Office of  
765 Insurance Regulation. The executive director of the corporation  
766 or his or her designee shall notify each existing and newly  
767 appointed member of the board of governors and senior managers  
768 of their duty to comply with the reporting requirements of part  
769 III of chapter 112. At least quarterly, the executive director  
770 or his or her designee shall submit to the Commission on Ethics  
771 a list of names of the senior managers and members of the board  
772 of governors who are subject to the public disclosure  
773 requirements under s. 112.3145.

774 4. Notwithstanding s. 112.3148, s. 112.3149, or any other  
775 provision of law, an employee or board member may not knowingly  
776 accept, directly or indirectly, any gift or expenditure from a  
777 person or entity, or an employee or representative of such

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778 person or entity, which has a contractual relationship with the  
779 corporation or who is under consideration for a contract. An  
780 employee or board member who fails to comply with subparagraph  
781 3. or this subparagraph is subject to penalties provided under  
782 ss. 112.317 and 112.3173.

783 5. Any senior manager of the corporation who is employed  
784 on or after January 1, 2007, regardless of the date of hire, who  
785 subsequently retires or terminates employment is prohibited from  
786 representing another person or entity before the corporation for  
787 2 years after retirement or termination of employment from the  
788 corporation.

789 6. The executive director, members of the board of  
790 governors, and senior managers of the corporation are prohibited  
791 from having any employment or contractual relationship for 2  
792 years after retirement from or termination of service to the  
793 corporation with an insurer that has entered into a take-out  
794 bonus agreement with the corporation.

795 (e) The corporation is subject to s. 287.057 for the  
796 purchase of commodities and contractual services except as  
797 otherwise provided in this paragraph. Services provided by  
798 tradepersons or technical experts to assist a licensed adjuster  
799 in the evaluation of individual claims are not subject to the  
800 procurement requirements of this section. Additionally, the  
801 procurement of financial services providers and underwriters  
802 must be made pursuant to s. 627.3513. Contracts for goods or

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803 services valued at or more than \$100,000 are subject to approval  
804 by the board.

805 1. The corporation is an agency for purposes of s.  
806 287.057, except that, for purposes of s. 287.057(24), the  
807 corporation is an eligible user.

808 a. The authority of the Department of Management Services  
809 and the Chief Financial Officer under s. 287.057 extends to the  
810 corporation as if the corporation were an agency.

811 b. The executive director of the corporation is the agency  
812 head under s. 287.057, ~~except for resolution of bid protests for~~  
813 ~~which the board would serve as the agency head.~~ The executive  
814 director may assign or appoint a designee to act on his or her  
815 behalf.

816 2. The corporation must provide notice of a decision or  
817 intended decision concerning a solicitation, contract award, or  
818 exceptional purchase by electronic posting. Such notice must  
819 contain the following statement: "Failure to file a protest  
820 within the time prescribed in this section constitutes a waiver  
821 of proceedings."

822 a. A person adversely affected by the corporation's  
823 decision or intended decision to award a contract pursuant to s.  
824 287.057(1) or (3)(c) who elects to challenge the decision must  
825 file a written notice of protest with the executive director of  
826 the corporation within 72 hours after the corporation posts a  
827 notice of its decision or intended decision. For a protest of

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828 the terms, conditions, and specifications contained in a  
829 solicitation, including provisions governing the methods for  
830 ranking bids, proposals, replies, awarding contracts, reserving  
831 rights of further negotiation, or modifying or amending any  
832 contract, the notice of protest must be filed in writing within  
833 72 hours after posting the solicitation. Saturdays, Sundays, and  
834 state holidays are excluded in the computation of the 72-hour  
835 time period.

836 b. A formal written protest must be filed within 10 days  
837 after the date the notice of protest is filed. The formal  
838 written protest must state with particularity the facts and law  
839 upon which the protest is based. Upon receipt of a formal  
840 written protest that has been timely filed, the corporation must  
841 stop the solicitation or contract award process until the  
842 subject of the protest is resolved by final board action unless  
843 the executive director sets forth in writing particular facts  
844 and circumstances that require the continuance of the  
845 solicitation or contract award process without delay in order to  
846 avoid an immediate and serious danger to the public health,  
847 safety, or welfare.

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

851 (II) If the subject of a protest is not resolved by mutual  
852 agreement within 7 business days, the corporation's board must

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853 transmit the protest to the Division of Administrative Hearings  
854 and contract with the division to conduct a hearing to determine  
855 the merits of the protest and to issue a recommended order. The  
856 contract must provide for the corporation to reimburse the  
857 division for any costs incurred by the division for court  
858 reporters, transcript preparation, travel, facility rental, and  
859 other customary hearing costs in the manner set forth in s.  
860 120.65(9). The division has jurisdiction to determine the facts  
861 and law concerning the protest and to issue a recommended order.  
862 The division's rules and procedures apply to these proceedings+  
863 ~~the division's applicable bond requirements do not apply.~~ The  
864 protest must be heard by the division at a publicly noticed  
865 meeting in accordance with procedures established by the  
866 division.

867 c. In a protest of an invitation-to-bid or request-for-  
868 proposals procurement, submissions made after the bid or  
869 proposal opening which amend or supplement the bid or proposal  
870 may not be considered. In protesting an invitation-to-negotiate  
871 procurement, submissions made after the corporation announces  
872 its intent to award a contract, reject all replies, or withdraw  
873 the solicitation that amends or supplements the reply may not be  
874 considered. Unless otherwise provided by law, the burden of  
875 proof rests with the party protesting the corporation's action.  
876 In a competitive-procurement protest, other than a rejection of  
877 all bids, proposals, or replies, the administrative law judge

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878 must conduct a de novo proceeding to determine whether the  
879 corporation's proposed action is contrary to the corporation's  
880 governing statutes, the corporation's rules or policies, or the  
881 solicitation specifications. The standard of proof for the  
882 proceeding is whether the corporation's action was clearly  
883 erroneous, contrary to competition, arbitrary, or capricious. In  
884 any bid-protest proceeding contesting an intended corporation  
885 action to reject all bids, proposals, or replies, the standard  
886 of review by the board is whether the corporation's intended  
887 action is illegal, arbitrary, dishonest, or fraudulent.

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

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

895 (f) The corporation is subject to the provisions of  
896 chapter 255.

897 (g) The board shall determine whether it is more cost-  
898 effective and in the best interests of the corporation to use  
899 legal services provided by in-house attorneys employed by the  
900 corporation rather than contracting with outside counsel. In  
901 making such determination, the board shall document its findings  
902 and shall consider: the expertise needed; whether time

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903 commitments exceed in-house staff resources; whether local  
904 representation is needed; the travel, lodging and other costs  
905 associated with in-house representation; and such other factors  
906 that the board determines are relevant.

907 (h) The corporation may not retain a lobbyist to represent  
908 it before the legislative branch or executive branch. However,  
909 full-time employees of the corporation may register as lobbyists  
910 and represent the corporation before the legislative branch or  
911 executive branch.

912 (i)1. The Office of the Internal Auditor is established  
913 within the corporation to provide a central point for  
914 coordination of and responsibility for activities that promote  
915 accountability, integrity, and efficiency to the policyholders  
916 and to the taxpayers of this state. The internal auditor shall  
917 be appointed by the board of governors, shall report to and be  
918 under the general supervision of the board of governors, and is  
919 not subject to supervision by an employee of the corporation.  
920 Administrative staff and support shall be provided by the  
921 corporation. The internal auditor shall be appointed without  
922 regard to political affiliation. It is the duty and  
923 responsibility of the internal auditor to:

924 a. Provide direction for, supervise, conduct, and  
925 coordinate audits, investigations, and management reviews  
926 relating to the programs and operations of the corporation.

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927           b. Conduct, supervise, or coordinate other activities  
928 carried out or financed by the corporation for the purpose of  
929 promoting efficiency in the administration of, or preventing and  
930 detecting fraud, abuse, and mismanagement in, its programs and  
931 operations.

932           c. Submit final audit reports, reviews, or investigative  
933 reports to the board of governors, the executive director, the  
934 members of the Financial Services Commission, and the President  
935 of the Senate and the Speaker of the House of Representatives.

936           d. Keep the board of governors informed concerning fraud,  
937 abuses, and internal control deficiencies relating to programs  
938 and operations administered or financed by the corporation,  
939 recommend corrective action, and report on the progress made in  
940 implementing corrective action.

941           e. Cooperate and coordinate activities with the  
942 corporation's inspector general.

943           2. On or before February 15, the internal auditor shall  
944 prepare an annual report evaluating the effectiveness of the  
945 internal controls of the corporation and providing  
946 recommendations for corrective action, if necessary, and  
947 summarizing the audits, reviews, and investigations conducted by  
948 the office during the preceding fiscal year. The final report  
949 shall be furnished to the board of governors and the executive  
950 director, the President of the Senate, the Speaker of the House  
951 of Representatives, and the Financial Services Commission.

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952 (j) All records of the corporation, except as otherwise  
953 provided by law, are subject to the record retention  
954 requirements of s. 119.021.

955 (k)1. The corporation shall establish and maintain a unit  
956 or division to investigate possible fraudulent claims by  
957 insureds or by persons making claims for services or repairs  
958 against policies held by insureds; or it may contract with  
959 others to investigate possible fraudulent claims for services or  
960 repairs against policies held by the corporation pursuant to s.  
961 626.9891. The corporation must comply with reporting  
962 requirements of s. 626.9891. An employee of the corporation  
963 shall notify the corporation's Office of the Inspector General  
964 and the Division of Investigative and Forensic Services within  
965 48 hours after having information that would lead a reasonable  
966 person to suspect that fraud may have been committed by any  
967 employee of the corporation.

968 2. The corporation shall establish a unit or division  
969 responsible for receiving and responding to consumer complaints,  
970 which unit or division is the sole responsibility of a senior  
971 manager of the corporation.

972 (l) The office shall conduct a comprehensive market  
973 conduct examination of the corporation every 2 years to  
974 determine compliance with its plan of operation and internal  
975 operations procedures. The first market conduct examination  
976 report shall be submitted to the President of the Senate and the

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977 Speaker of the House of Representatives no later than February  
978 1, 2009. Subsequent reports shall be submitted on or before  
979 February 1 every 2 years thereafter.

980 (m) The Auditor General shall conduct an operational audit  
981 of the corporation every 3 years to evaluate management's  
982 performance in administering laws, policies, and procedures  
983 governing the operations of the corporation in an efficient and  
984 effective manner. The scope of the review shall include, but is  
985 not limited to, evaluating claims handling, customer service,  
986 take-out programs and bonuses, financing arrangements,  
987 procurement of goods and services, internal controls, and the  
988 internal audit function. The initial audit must be completed by  
989 February 1, 2009.

990 (n)1. Rates for coverage provided by the corporation must  
991 be actuarially sound pursuant to s. 627.062 and not competitive  
992 with approved rates charged in the admitted voluntary market so  
993 that the corporation functions as a residual market mechanism to  
994 provide insurance only when insurance cannot be procured in the  
995 voluntary market, except as otherwise provided in this  
996 paragraph. The office shall provide the corporation such  
997 information as would be necessary to determine whether rates are  
998 competitive. The corporation shall file its recommended rates  
999 with the office at least annually. The corporation shall provide  
1000 any additional information regarding the rates which the office  
1001 requires. The office shall consider the recommendations of the

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1002 board and issue a final order establishing the rates for the  
1003 corporation within 45 days after the recommended rates are  
1004 filed. The corporation may not pursue an administrative  
1005 challenge or judicial review of the final order of the office.

1006 2. In addition to the rates otherwise determined pursuant  
1007 to this paragraph, the corporation shall impose and collect an  
1008 amount equal to the premium tax provided in s. 624.509 to  
1009 augment the financial resources of the corporation.

1010 3. After the public hurricane loss-projection model under  
1011 s. 627.06281 has been found to be accurate and reliable by the  
1012 Florida Commission on Hurricane Loss Projection Methodology, the  
1013 model shall be considered when establishing the windstorm  
1014 portion of the corporation's rates. The corporation may use the  
1015 public model results in combination with the results of private  
1016 models to calculate rates for the windstorm portion of the  
1017 corporation's rates. This subparagraph does not require or allow  
1018 the corporation to adopt rates lower than the rates otherwise  
1019 required or allowed by this paragraph.

1020 4. The corporation must make a recommended actuarially  
1021 sound rate filing for each personal and commercial line of  
1022 business it writes.

1023 5. Notwithstanding the board's recommended rates and the  
1024 office's final order regarding the corporation's filed rates  
1025 under subparagraph 1., the corporation shall annually implement  
1026 a rate increase which, except for sinkhole coverage, does not

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1027 exceed the following for any single policy issued by the  
1028 corporation, excluding coverage changes and surcharges:

1029 ~~a. Twelve percent for 2023.~~

1030 ~~a.b.~~ Thirteen percent for 2024.

1031 ~~b.e.~~ Fourteen percent for 2025.

1032 ~~c.d.~~ Fifteen percent for 2026 and all subsequent years.

1033 6. The corporation may also implement an increase to  
1034 reflect the effect on the corporation of the cash buildup factor  
1035 pursuant to s. 215.555(5) (b).

1036 7. The corporation's implementation of rates as prescribed  
1037 in subparagraphs 5. and 8. shall cease for any line of business  
1038 written by the corporation upon the corporation's implementation  
1039 of actuarially sound rates. Thereafter, the corporation shall  
1040 annually make a recommended actuarially sound rate filing that  
1041 is not competitive with approved rates in the admitted voluntary  
1042 market for each commercial and personal line of business the  
1043 corporation writes.

1044 8. The following new or renewal personal lines policies  
1045 written on or after November 1, 2023, are not subject to the  
1046 rate increase limitations in subparagraph 5., but may not be  
1047 charged more than 50 percent above, and may not be charged ~~nor~~  
1048 less than, the prior year's established rate for the  
1049 corporation:

1050 a. Policies that do not cover a primary residence;

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1051 b. New policies under which the coverage for the insured  
1052 risk, before the date of application with the corporation, was  
1053 last provided by an insurer determined by the office to be  
1054 unsound or an insurer placed in receivership under chapter 631;  
1055 or

1056 c. Subsequent renewals of those policies, including the  
1057 new policies in sub-subparagraph b., under which the coverage  
1058 for the insured risk, before the date of application with the  
1059 corporation, was last provided by an insurer determined by the  
1060 office to be unsound or an insurer placed in receivership under  
1061 chapter 631.

1062 9. As used in this paragraph, the term "primary residence"  
1063 means the dwelling that is the policyholder's primary home or is  
1064 a rental property that is the primary home of the tenant, and  
1065 which the policyholder or tenant occupies for more than 9 months  
1066 of each year.

1067 (o) If coverage in ~~an account, or~~ the Citizens account ~~if~~  
1068 ~~established by the corporation,~~ is deactivated pursuant to  
1069 paragraph (p), coverage through the corporation shall be  
1070 reactivated by order of the office only under one of the  
1071 following circumstances:

1072 1. If the market assistance plan receives a minimum of 100  
1073 applications for coverage within a 3-month period, or 200  
1074 applications for coverage within a 1-year period or less for  
1075 residential coverage, unless the market assistance plan provides

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1076 a quotation from authorized ~~admitted~~ carriers at their approved  
1077 ~~filed~~ rates for at least 90 percent of such applicants. Any  
1078 market assistance plan application that is rejected because an  
1079 individual risk is so hazardous as to be uninsurable using the  
1080 criteria specified in subparagraph (c)8. shall not be included  
1081 in the minimum percentage calculation provided herein. In the  
1082 event that there is a legal or administrative challenge to a  
1083 determination by the office that the conditions of this  
1084 subparagraph have been met for eligibility for coverage in the  
1085 corporation, any eligible risk may obtain coverage during the  
1086 pendency of such challenge.

1087 2. In response to a state of emergency declared by the  
1088 Governor under s. 252.36, the office may activate coverage by  
1089 order for the period of the emergency upon a finding by the  
1090 office that the emergency significantly affects the availability  
1091 of residential property insurance.

1092 (p)1. The corporation shall file with the office quarterly  
1093 statements of financial condition, an annual statement of  
1094 financial condition, and audited financial statements in the  
1095 manner prescribed by law. In addition, the corporation shall  
1096 report to the office monthly on the types, premium, exposure,  
1097 and distribution by county of its policies in force, and shall  
1098 submit other reports as the office requires to carry out its  
1099 oversight of the corporation.

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1100           2. The activities of the corporation shall be reviewed at  
1101 least annually by the office to determine whether coverage shall  
1102 be deactivated ~~in an account, or~~ in the Citizens account ~~if~~  
1103 ~~established by the corporation,~~ on the basis that the conditions  
1104 giving rise to its activation no longer exist.

1105           (q)1. The corporation shall certify to the office its  
1106 needs for annual assessments as to a particular calendar year,  
1107 and for any interim assessments that it deems to be necessary to  
1108 sustain operations as to a particular year pending the receipt  
1109 of annual assessments. Upon verification, the office shall  
1110 approve such certification, and the corporation shall levy such  
1111 annual or interim assessments. Such assessments shall be  
1112 prorated, if authority to levy exists, as provided in paragraph  
1113 (b). The corporation shall take all reasonable and prudent steps  
1114 necessary to collect the amount of assessments due from each  
1115 assessable insurer, including, if prudent, filing suit to  
1116 collect the assessments, and the office may provide such  
1117 assistance to the corporation it deems appropriate. If the  
1118 corporation is unable to collect an assessment from any  
1119 assessable insurer, the uncollected assessments shall be levied  
1120 as an additional assessment against the assessable insurers and  
1121 any assessable insurer required to pay an additional assessment  
1122 as a result of such failure to pay shall have a cause of action  
1123 against such nonpaying assessable insurer. Assessments shall be  
1124 included as an appropriate factor in the making of rates. The

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1125 failure of a surplus lines agent to collect and remit any  
1126 regular or emergency assessment levied by the corporation is  
1127 considered to be a violation of s. 626.936 and subjects the  
1128 surplus lines agent to the penalties provided in that section.

1129 2. The governing body of any unit of local government, any  
1130 residents of which are insured by the corporation, may issue  
1131 bonds as defined in s. 125.013 or s. 166.101 from time to time  
1132 to fund an assistance program, in conjunction with the  
1133 corporation, for the purpose of defraying deficits of the  
1134 corporation. In order to avoid needless and indiscriminate  
1135 proliferation, duplication, and fragmentation of such assistance  
1136 programs, any unit of local government, any residents of which  
1137 are insured by the corporation, may provide for the payment of  
1138 losses, regardless of whether or not the losses occurred within  
1139 or outside of the territorial jurisdiction of the local  
1140 government. Revenue bonds under this subparagraph may not be  
1141 issued until validated pursuant to chapter 75, unless a state of  
1142 emergency is declared by executive order or proclamation of the  
1143 Governor pursuant to s. 252.36 making such findings as are  
1144 necessary to determine that it is in the best interests of, and  
1145 necessary for, the protection of the public health, safety, and  
1146 general welfare of residents of this state and declaring it an  
1147 essential public purpose to permit certain municipalities or  
1148 counties to issue such bonds as will permit relief to claimants  
1149 and policyholders of the corporation. Any such unit of local

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1150 government may enter into such contracts with the corporation  
1151 and with any other entity created pursuant to this subsection as  
1152 are necessary to carry out this paragraph. Any bonds issued  
1153 under this subparagraph shall be payable from and secured by  
1154 moneys received by the corporation from emergency assessments  
1155 under sub-subparagraph (b)3.c. ~~(b)3.e.~~, and assigned and pledged  
1156 to or on behalf of the unit of local government for the benefit  
1157 of the holders of such bonds. The funds, credit, property, and  
1158 taxing power of the state or of the unit of local government  
1159 shall not be pledged for the payment of such bonds.

1160 3.a. The corporation shall adopt one or more programs  
1161 subject to approval by the office for the reduction of both new  
1162 and renewal writings in the corporation. Beginning January 1,  
1163 2008, any program the corporation adopts for the payment of  
1164 bonuses to an insurer for each risk the insurer removes from the  
1165 corporation shall comply with s. 627.3511(2) and may not exceed  
1166 the amount referenced in s. 627.3511(2) for each risk removed.  
1167 The corporation may consider any prudent and not unfairly  
1168 discriminatory approach to reducing corporation writings, and  
1169 may adopt a credit against assessment liability or other  
1170 liability that provides an incentive for insurers to take risks  
1171 out of the corporation and to keep risks out of the corporation  
1172 by maintaining or increasing voluntary writings in counties or  
1173 areas in which corporation risks are highly concentrated and a  
1174 program to provide a formula under which an insurer voluntarily

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1175 taking risks out of the corporation by maintaining or increasing  
1176 voluntary writings will be relieved wholly or partially from  
1177 assessments ~~under sub-subparagraph (b)3.a.~~ In addition, in the  
1178 event policies are taken out by an approved surplus lines  
1179 insurer, such insurer's assessable insureds may also be relieved  
1180 wholly or partially from assessments. However, any "take-out  
1181 bonus" or payment to an insurer must be conditioned on the  
1182 property being insured for at least 5 years by the insurer,  
1183 unless canceled or nonrenewed by the policyholder. If the policy  
1184 is canceled or nonrenewed by the policyholder before the end of  
1185 the 5-year period, the amount of the take-out bonus must be  
1186 prorated for the time period the policy was insured. When the  
1187 corporation enters into a contractual agreement for a take-out  
1188 plan, the producing agent of record of the corporation policy is  
1189 entitled to retain any unearned commission on such policy, and  
1190 the insurer shall either:

1191 (I) Pay to the producing agent of record of the policy,  
1192 for the first year, an amount which is the greater of the  
1193 insurer's usual and customary commission for the type of policy  
1194 written or a policy fee equal to the usual and customary  
1195 commission of the corporation; or

1196 (II) Offer to allow the producing agent of record of the  
1197 policy to continue servicing the policy for a period of not less  
1198 than 1 year and offer to pay the agent the insurer's usual and  
1199 customary commission for the type of policy written. If the

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1200 producing agent is unwilling or unable to accept appointment by  
1201 the new insurer, the new insurer shall pay the agent in  
1202 accordance with sub-sub-subparagraph (I).

1203 b. Any credit or exemption from regular assessments  
1204 adopted under this subparagraph shall last no longer than the 3  
1205 years following the cancellation or expiration of the policy by  
1206 the corporation. With the approval of the office, the board may  
1207 extend such credits for an additional year if the insurer  
1208 guarantees an additional year of renewability for all policies  
1209 removed from the corporation, or for 2 additional years if the  
1210 insurer guarantees 2 additional years of renewability for all  
1211 policies so removed.

1212 c. There shall be no credit, limitation, exemption, or  
1213 deferment from emergency assessments to be collected from  
1214 policyholders pursuant to sub-subparagraph (b)3.c. ~~(b)3.e. or~~  
1215 ~~sub-subparagraph (b)5.e.~~

1216 ~~4. The plan shall provide for the deferment, in whole or~~  
1217 ~~in part, of the assessment of an assessable insurer, other than~~  
1218 ~~an emergency assessment collected from policyholders pursuant to~~  
1219 ~~sub-subparagraph (b)3.e. or sub-subparagraph (b)5.e., if the~~  
1220 ~~office finds that payment of the assessment would endanger or~~  
1221 ~~impair the solvency of the insurer. In the event an assessment~~  
1222 ~~against an assessable insurer is deferred in whole or in part,~~  
1223 ~~the amount by which such assessment is deferred may be assessed~~

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1224 ~~against the other assessable insurers in a manner consistent~~  
1225 ~~with the basis for assessments set forth in paragraph (b).~~

1226 ~~4.5.~~ Effective July 1, 2007, in order to evaluate the  
1227 costs and benefits of approved take-out plans, if the  
1228 corporation pays a bonus or other payment to an insurer for an  
1229 approved take-out plan, it shall maintain a record of the  
1230 address or such other identifying information on the property or  
1231 risk removed in order to track if and when the property or risk  
1232 is later insured by the corporation.

1233 ~~5.6.~~ Any policy taken out, assumed, or removed from the  
1234 corporation is, as of the effective date of the take-out,  
1235 assumption, or removal, direct insurance issued by the insurer  
1236 and not by the corporation, even if the corporation continues to  
1237 service the policies. This subparagraph applies to policies of  
1238 the corporation and not policies taken out, assumed, or removed  
1239 from any other entity.

1240 ~~6.7.~~ For a policy taken out, assumed, or removed from the  
1241 corporation, the insurer may, for a period of no more than 3  
1242 years, continue to use any of the corporation's policy forms or  
1243 endorsements that apply to the policy taken out, removed, or  
1244 assumed without obtaining approval from the office for use of  
1245 such policy form or endorsement.

1246 (r) Nothing in this subsection shall be construed to  
1247 preclude the issuance of residential property insurance coverage  
1248 pursuant to part VIII of chapter 626.

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1249 (s)1. There shall be no liability on the part of, and no  
1250 cause of action of any nature shall arise against, any  
1251 assessable insurer or its agents or employees, the corporation  
1252 or its agents or employees, members of the board of governors or  
1253 their respective designees at a board meeting, corporation  
1254 committee members, or the office or its representatives, for any  
1255 action taken by them in the performance of their duties or  
1256 responsibilities under this subsection. Such immunity does not  
1257 apply to:

1258 a. Any of the foregoing persons or entities for any  
1259 willful tort;

1260 b. The corporation or its producing agents for breach of  
1261 any contract or agreement pertaining to insurance coverage;

1262 c. The corporation with respect to issuance or payment of  
1263 debt;

1264 d. Any assessable insurer with respect to any action to  
1265 enforce an assessable insurer's obligations to the corporation  
1266 under this subsection; or

1267 e. The corporation in any pending or future action for  
1268 breach of contract or for benefits under a policy issued by the  
1269 corporation.

1270 2. The corporation shall manage its claim employees,  
1271 independent adjusters, and others who handle claims to ensure  
1272 they carry out the corporation's duty to its policyholders to  
1273 handle claims carefully, timely, diligently, and in good faith,

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1274 | balanced against the corporation's duty to the state to manage  
1275 | its assets responsibly to minimize its assessment potential.

1276 |       (t) For the purposes of s. 199.183(1), the corporation  
1277 | shall be considered a political subdivision of the state and  
1278 | shall be exempt from the corporate income tax. The premiums,  
1279 | assessments, investment income, and other revenue of the  
1280 | corporation are funds received for providing property insurance  
1281 | coverage as required by this subsection, paying claims for  
1282 | Florida citizens insured by the corporation, securing and  
1283 | repaying debt obligations issued by the corporation, and  
1284 | conducting all other activities of the corporation, and shall  
1285 | not be considered taxes, fees, licenses, or charges for services  
1286 | imposed by the Legislature on individuals, businesses, or  
1287 | agencies outside state government. Bonds and other debt  
1288 | obligations issued by or on behalf of the corporation are not to  
1289 | be considered "state bonds" within the meaning of s. 215.58(8).  
1290 | The corporation is subject to the procurement provisions of  
1291 | chapter 287 as provided in paragraph (e), and policies and  
1292 | decisions of the corporation relating to incurring debt, levying  
1293 | of assessments and the sale, issuance, continuation, terms and  
1294 | claims under corporation policies, and all services relating  
1295 | thereto, are not subject to the provisions of chapter 120. The  
1296 | corporation is not required to obtain or to hold a certificate  
1297 | of authority issued by the office, nor is it required to  
1298 | participate as a member insurer of the Florida Insurance

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1299 Guaranty Association. However, the corporation is required to  
1300 pay, in the same manner as an authorized insurer, assessments  
1301 levied by the Florida Insurance Guaranty Association. It is the  
1302 intent of the Legislature that the tax exemptions provided in  
1303 this paragraph will augment the financial resources of the  
1304 corporation to better enable the corporation to fulfill its  
1305 public purposes. Any debt obligations issued by the corporation,  
1306 their transfer, and the income therefrom, including any profit  
1307 made on the sale thereof, shall at all times be free from  
1308 taxation of every kind by the state and any political  
1309 subdivision or local unit or other instrumentality thereof;  
1310 however, this exemption does not apply to any tax imposed by  
1311 chapter 220 on interest, income, or profits on debt obligations  
1312 owned by corporations other than the corporation.

1313 (u) Upon a determination by the office that the conditions  
1314 giving rise to the establishment and activation of the  
1315 corporation no longer exist, the corporation is dissolved. Upon  
1316 dissolution, the assets of the corporation shall be applied  
1317 first to pay all debts, liabilities, and obligations of the  
1318 corporation, including the establishment of reasonable reserves  
1319 for any contingent liabilities or obligations, and all remaining  
1320 assets of the corporation shall become property of the state and  
1321 shall be deposited in the Florida Hurricane Catastrophe Fund.  
1322 However, no dissolution shall take effect as long as the  
1323 corporation has bonds or other financial obligations outstanding

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1324 unless adequate provision has been made for the payment of the  
1325 bonds or other financial obligations pursuant to the documents  
1326 authorizing the issuance of the bonds or other financial  
1327 obligations.

1328 (v)1. Effective July 1, 2002, policies of the Residential  
1329 Property and Casualty Joint Underwriting Association become  
1330 policies of the corporation. All obligations, rights, assets and  
1331 liabilities of the association, including bonds, note and debt  
1332 obligations, and the financing documents pertaining to them  
1333 become those of the corporation as of July 1, 2002. The  
1334 corporation is not required to issue endorsements or  
1335 certificates of assumption to insureds during the remaining term  
1336 of in-force transferred policies.

1337 2. Effective July 1, 2002, policies of the Florida  
1338 Windstorm Underwriting Association are transferred to the  
1339 corporation and become policies of the corporation. All  
1340 obligations, rights, assets, and liabilities of the association,  
1341 including bonds, note and debt obligations, and the financing  
1342 documents pertaining to them are transferred to and assumed by  
1343 the corporation on July 1, 2002. The corporation is not required  
1344 to issue endorsements or certificates of assumption to insureds  
1345 during the remaining term of in-force transferred policies.

1346 3. The Florida Windstorm Underwriting Association and the  
1347 Residential Property and Casualty Joint Underwriting Association  
1348 shall take all actions necessary to further evidence the

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1349 transfers and provide the documents and instruments of further  
1350 assurance as may reasonably be requested by the corporation for  
1351 that purpose. The corporation shall execute assumptions and  
1352 instruments as the trustees or other parties to the financing  
1353 documents of the Florida Windstorm Underwriting Association or  
1354 the Residential Property and Casualty Joint Underwriting  
1355 Association may reasonably request to further evidence the  
1356 transfers and assumptions, which transfers and assumptions,  
1357 however, are effective on the date provided under this paragraph  
1358 whether or not, and regardless of the date on which, the  
1359 assumptions or instruments are executed by the corporation.  
1360 ~~Subject to the relevant financing documents pertaining to their~~  
1361 ~~outstanding bonds, notes, indebtedness, or other financing~~  
1362 ~~obligations, the moneys, investments, receivables, choses in~~  
1363 ~~action, and other intangibles of the Florida Windstorm~~  
1364 ~~Underwriting Association shall be credited to the coastal~~  
1365 ~~account of the corporation, and those of the personal lines~~  
1366 ~~residential coverage account and the commercial lines~~  
1367 ~~residential coverage account of the Residential Property and~~  
1368 ~~Casualty Joint Underwriting Association shall be credited to the~~  
1369 ~~personal lines account and the commercial lines account,~~  
1370 ~~respectively, of the corporation.~~

1371 4. Effective July 1, 2002, a new applicant for property  
1372 insurance coverage who would otherwise have been eligible for  
1373 coverage in the Florida Windstorm Underwriting Association is

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1374 eligible for coverage from the corporation as provided in this  
1375 subsection.

1376 5. The transfer of all policies, obligations, rights,  
1377 assets, and liabilities from the Florida Windstorm Underwriting  
1378 Association to the corporation and the renaming of the  
1379 Residential Property and Casualty Joint Underwriting Association  
1380 as the corporation does not affect the coverage with respect to  
1381 covered policies as defined in s. 215.555(2)(c) provided to  
1382 these entities by the Florida Hurricane Catastrophe Fund. ~~The~~  
1383 ~~coverage provided by the fund to the Florida Windstorm~~  
1384 ~~Underwriting Association based on its exposures as of June 30,~~  
1385 ~~2002, and each June 30 thereafter, unless the corporation has~~  
1386 ~~established the Citizens account, shall be redesignated as~~  
1387 ~~coverage for the coastal account of the corporation.~~  
1388 ~~Notwithstanding any other provision of law, the coverage~~  
1389 ~~provided by the fund to the Residential Property and Casualty~~  
1390 ~~Joint Underwriting Association based on its exposures as of June~~  
1391 ~~30, 2002, and each June 30 thereafter, unless the corporation~~  
1392 ~~has established the Citizens account, shall be transferred to~~  
1393 ~~the personal lines account and the commercial lines account of~~  
1394 ~~the corporation. Notwithstanding any other provision of law, the~~  
1395 ~~coastal account, unless the corporation has established the~~  
1396 ~~Citizens account, shall be treated, for all Florida Hurricane~~  
1397 ~~Catastrophe Fund purposes, as if it were a separate~~  
1398 ~~participating insurer with its own exposures, reimbursement~~

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1399 ~~premium, and loss reimbursement. Likewise, the personal lines~~  
1400 ~~and commercial lines accounts, unless the corporation has~~  
1401 ~~established the Citizens account, shall be viewed together, for~~  
1402 ~~all fund purposes, as if the two accounts were one and represent~~  
1403 ~~a single, separate participating insurer with its own exposures,~~  
1404 ~~reimbursement premium, and loss reimbursement.~~ The coverage  
1405 provided by the fund to the corporation shall constitute and  
1406 operate as a full transfer of coverage from the Florida  
1407 Windstorm Underwriting Association and Residential Property and  
1408 Casualty Joint Underwriting Association to the corporation.

1409 (w) Notwithstanding any other provision of law:

1410 1. The pledge or sale of, the lien upon, and the security  
1411 interest in any rights, revenues, or other assets of the  
1412 corporation created or purported to be created pursuant to any  
1413 financing documents to secure any bonds or other indebtedness of  
1414 the corporation shall be and remain valid and enforceable,  
1415 notwithstanding the commencement of and during the continuation  
1416 of, and after, any rehabilitation, insolvency, liquidation,  
1417 bankruptcy, receivership, conservatorship, reorganization, or  
1418 similar proceeding against the corporation under the laws of  
1419 this state.

1420 2. The proceeding does not relieve the corporation of its  
1421 obligation, or otherwise affect its ability to perform its  
1422 obligation, to continue to collect, or levy and collect,  
1423 assessments, policyholder surcharges or other surcharges ~~under~~

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1424 ~~sub-subparagraph (b) 3.j.~~, or any other rights, revenues, or  
1425 other assets of the corporation pledged pursuant to any  
1426 financing documents.

1427         3. Each such pledge or sale of, lien upon, and security  
1428 interest in, including the priority of such pledge, lien, or  
1429 security interest, any such assessments, policyholder surcharges  
1430 or other surcharges, or other rights, revenues, or other assets  
1431 which are collected, or levied and collected, after the  
1432 commencement of and during the pendency of, or after, any such  
1433 proceeding shall continue unaffected by such proceeding. As used  
1434 in this subsection, the term "financing documents" means any  
1435 agreement or agreements, instrument or instruments, or other  
1436 document or documents now existing or hereafter created  
1437 evidencing any bonds or other indebtedness of the corporation or  
1438 pursuant to which any such bonds or other indebtedness has been  
1439 or may be issued and pursuant to which any rights, revenues, or  
1440 other assets of the corporation are pledged or sold to secure  
1441 the repayment of such bonds or indebtedness, together with the  
1442 payment of interest on such bonds or such indebtedness, or the  
1443 payment of any other obligation or financial product, as defined  
1444 in the plan of operation of the corporation related to such  
1445 bonds or indebtedness.

1446         4. Any such pledge or sale of assessments, revenues,  
1447 contract rights, or other rights or assets of the corporation  
1448 shall constitute a lien and security interest, or sale, as the

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1449 case may be, that is immediately effective and attaches to such  
1450 assessments, revenues, or contract rights or other rights or  
1451 assets, whether or not imposed or collected at the time the  
1452 pledge or sale is made. Any such pledge or sale is effective,  
1453 valid, binding, and enforceable against the corporation or other  
1454 entity making such pledge or sale, and valid and binding against  
1455 and superior to any competing claims or obligations owed to any  
1456 other person or entity, including policyholders in this state,  
1457 asserting rights in any such assessments, revenues, or contract  
1458 rights or other rights or assets to the extent set forth in and  
1459 in accordance with the terms of the pledge or sale contained in  
1460 the applicable financing documents, whether or not any such  
1461 person or entity has notice of such pledge or sale and without  
1462 the need for any physical delivery, recordation, filing, or  
1463 other action.

1464         5. As long as the corporation has any bonds outstanding,  
1465 the corporation may not file a voluntary petition under chapter  
1466 9 of the federal Bankruptcy Code or such corresponding chapter  
1467 or sections as may be in effect, from time to time, and a public  
1468 officer or any organization, entity, or other person may not  
1469 authorize the corporation to be or become a debtor under chapter  
1470 9 of the federal Bankruptcy Code or such corresponding chapter  
1471 or sections as may be in effect, from time to time, during any  
1472 such period.

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1473           6. If ordered by a court of competent jurisdiction, the  
1474 corporation may assume policies or otherwise provide coverage  
1475 for policyholders of an insurer placed in liquidation under  
1476 chapter 631, under such forms, rates, terms, and conditions as  
1477 the corporation deems appropriate, subject to approval by the  
1478 office.

1479           (x)1. The following records of the corporation are  
1480 confidential and exempt from the provisions of s. 119.07(1) and  
1481 s. 24(a), Art. I of the State Constitution:

1482           a. Underwriting files, except that a policyholder or an  
1483 applicant shall have access to his or her own underwriting  
1484 files. Confidential and exempt underwriting file records may  
1485 also be released to other governmental agencies upon written  
1486 request and demonstration of need; such records held by the  
1487 receiving agency remain confidential and exempt as provided  
1488 herein.

1489           b. Claims files, until termination of all litigation and  
1490 settlement of all claims arising out of the same incident,  
1491 although portions of the claims files may remain exempt, as  
1492 otherwise provided by law. Confidential and exempt claims file  
1493 records may be released to other governmental agencies upon  
1494 written request and demonstration of need; such records held by  
1495 the receiving agency remain confidential and exempt as provided  
1496 herein.

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1497 c. Records obtained or generated by an internal auditor  
1498 pursuant to a routine audit, until the audit is completed, or if  
1499 the audit is conducted as part of an investigation, until the  
1500 investigation is closed or ceases to be active. An investigation  
1501 is considered "active" while the investigation is being  
1502 conducted with a reasonable, good faith belief that it could  
1503 lead to the filing of administrative, civil, or criminal  
1504 proceedings.

1505 d. Matters reasonably encompassed in privileged attorney-  
1506 client communications.

1507 e. Proprietary information licensed to the corporation  
1508 under contract and the contract provides for the confidentiality  
1509 of such proprietary information.

1510 f. All information relating to the medical condition or  
1511 medical status of a corporation employee which is not relevant  
1512 to the employee's capacity to perform his or her duties, except  
1513 as otherwise provided in this paragraph. Information that is  
1514 exempt shall include, but is not limited to, information  
1515 relating to workers' compensation, insurance benefits, and  
1516 retirement or disability benefits.

1517 g. Upon an employee's entrance into the employee  
1518 assistance program, a program to assist any employee who has a  
1519 behavioral or medical disorder, substance abuse problem, or  
1520 emotional difficulty that affects the employee's job  
1521 performance, all records relative to that participation shall be

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1522 confidential and exempt from the provisions of s. 119.07(1) and  
1523 s. 24(a), Art. I of the State Constitution, except as otherwise  
1524 provided in s. 112.0455(11).

1525 h. Information relating to negotiations for financing,  
1526 reinsurance, depopulation, or contractual services, until the  
1527 conclusion of the negotiations.

1528 i. Minutes of closed meetings regarding underwriting  
1529 files, and minutes of closed meetings regarding an open claims  
1530 file until termination of all litigation and settlement of all  
1531 claims with regard to that claim, except that information  
1532 otherwise confidential or exempt by law shall be redacted.

1533 2. If an authorized insurer is considering underwriting a  
1534 risk insured by the corporation, relevant underwriting files and  
1535 confidential claims files may be released to the insurer  
1536 provided the insurer agrees in writing, notarized and under  
1537 oath, to maintain the confidentiality of such files. If a file  
1538 is transferred to an insurer, that file is no longer a public  
1539 record because it is not held by an agency subject to the  
1540 provisions of the public records law. Underwriting files and  
1541 confidential claims files may also be released to staff and the  
1542 board of governors of the market assistance plan established  
1543 pursuant to s. 627.3515, who must retain the confidentiality of  
1544 such files, except such files may be released to authorized  
1545 insurers that are considering assuming the risks to which the  
1546 files apply, provided the insurer agrees in writing, notarized

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1547 and under oath, to maintain the confidentiality of such files.  
1548 Finally, the corporation or the board or staff of the market  
1549 assistance plan may make the following information obtained from  
1550 underwriting files and confidential claims files available to an  
1551 entity that has obtained a permit to become an authorized  
1552 insurer, a reinsurer that may provide reinsurance under s.  
1553 624.610, a licensed reinsurance broker, a licensed rating  
1554 organization, a modeling company, a licensed surplus lines  
1555 agent, or a licensed general lines insurance agent: name,  
1556 address, and telephone number of the residential property owner  
1557 or insured; location of the risk; rating information; loss  
1558 history; and policy type. The receiving person must retain the  
1559 confidentiality of the information received and may use the  
1560 information only for the purposes of developing a take-out plan  
1561 or a rating plan to be submitted to the office for approval or  
1562 otherwise analyzing the underwriting of a risk or risks insured  
1563 by the corporation on behalf of the private insurance market. A  
1564 licensed surplus lines agent or a licensed general lines  
1565 insurance agent may not use such information for the direct  
1566 solicitation of policyholders.

1567 3. A policyholder who has filed suit against the  
1568 corporation has the right to discover the contents of his or her  
1569 own claims file to the same extent that discovery of such  
1570 contents would be available from a private insurer in litigation  
1571 as provided by the Florida Rules of Civil Procedure, the Florida

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1572 Evidence Code, and other applicable law. Pursuant to subpoena, a  
1573 third party has the right to discover the contents of an  
1574 insured's or applicant's underwriting or claims file to the same  
1575 extent that discovery of such contents would be available from a  
1576 private insurer by subpoena as provided by the Florida Rules of  
1577 Civil Procedure, the Florida Evidence Code, and other applicable  
1578 law, and subject to any confidentiality protections requested by  
1579 the corporation and agreed to by the seeking party or ordered by  
1580 the court. The corporation may release confidential underwriting  
1581 and claims file contents and information as it deems necessary  
1582 and appropriate to underwrite or service insurance policies and  
1583 claims, subject to any confidentiality protections deemed  
1584 necessary and appropriate by the corporation.

1585 4. Portions of meetings of the corporation are exempt from  
1586 the provisions of s. 286.011 and s. 24(b), Art. I of the State  
1587 Constitution wherein confidential underwriting files or  
1588 confidential open claims files are discussed. All portions of  
1589 corporation meetings which are closed to the public shall be  
1590 recorded by a court reporter. The court reporter shall record  
1591 the times of commencement and termination of the meeting, all  
1592 discussion and proceedings, the names of all persons present at  
1593 any time, and the names of all persons speaking. No portion of  
1594 any closed meeting shall be off the record. Subject to the  
1595 provisions hereof and s. 119.07(1)(d)-(f), the court reporter's  
1596 notes of any closed meeting shall be retained by the corporation

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1597 for a minimum of 5 years. A copy of the transcript, less any  
1598 exempt matters, of any closed meeting wherein claims are  
1599 discussed shall become public as to individual claims after  
1600 settlement of the claim.

1601 (y) It is the intent of the Legislature that the  
1602 amendments to this subsection enacted in 2002 should, over time,  
1603 reduce the probable maximum windstorm losses in the residual  
1604 markets and the potential assessments to be levied on property  
1605 insurers and policyholders statewide.

1606 (z) In enacting the provisions of this section, the  
1607 Legislature recognizes that both the Florida Windstorm  
1608 Underwriting Association and the Residential Property and  
1609 Casualty Joint Underwriting Association have entered into  
1610 financing arrangements that obligate each entity to service its  
1611 debts and maintain the capacity to repay funds secured under  
1612 these financing arrangements. It is the intent of the  
1613 Legislature that nothing in this section be construed to  
1614 compromise, diminish, or interfere with the rights of creditors  
1615 under such financing arrangements. It is further the intent of  
1616 the Legislature to preserve the obligations of the Florida  
1617 Windstorm Underwriting Association and Residential Property and  
1618 Casualty Joint Underwriting Association with regard to  
1619 outstanding financing arrangements, with such obligations  
1620 passing entirely and unchanged to the corporation and,  
1621 specifically, to the Citizens ~~applicable~~ account of the

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1622 corporation. So long as any bonds, notes, indebtedness, or other  
1623 financing obligations of the Florida Windstorm Underwriting  
1624 Association or the Residential Property and Casualty Joint  
1625 Underwriting Association are outstanding, under the terms of the  
1626 financing documents pertaining to them, the governing board of  
1627 the corporation shall have and shall exercise the authority to  
1628 levy, charge, collect, and receive all premiums, assessments,  
1629 surcharges, charges, revenues, and receipts that the  
1630 associations had authority to levy, charge, collect, or receive  
1631 under the provisions of subsection (2) and this subsection,  
1632 respectively, as they existed on January 1, 2002, to provide  
1633 moneys, without exercise of the authority provided by this  
1634 subsection, in at least the amounts, and by the times, as would  
1635 be provided under those former provisions of subsection (2) or  
1636 this subsection, respectively, so that the value, amount, and  
1637 collectability of any assets, revenues, or revenue source  
1638 pledged or committed to, or any lien thereon securing such  
1639 outstanding bonds, notes, indebtedness, or other financing  
1640 obligations will not be diminished, impaired, or adversely  
1641 affected by the amendments made by this act and to permit  
1642 compliance with all provisions of financing documents pertaining  
1643 to such bonds, notes, indebtedness, or other financing  
1644 obligations, or the security or credit enhancement for them, and  
1645 any reference in this subsection to bonds, notes, indebtedness,  
1646 financing obligations, or similar obligations, of the

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1647 corporation shall include like instruments or contracts of the  
1648 Florida Windstorm Underwriting Association and the Residential  
1649 Property and Casualty Joint Underwriting Association to the  
1650 extent not inconsistent with the provisions of the financing  
1651 documents pertaining to them.

1652 (aa) Except as otherwise provided in this paragraph, the  
1653 corporation shall require the securing and maintaining of flood  
1654 insurance as a condition of coverage of a personal lines  
1655 residential risk. The insured or applicant must execute a form  
1656 approved by the office affirming that flood insurance is not  
1657 provided by the corporation and that if flood insurance is not  
1658 secured by the applicant or insured from an insurer other than  
1659 the corporation and in addition to coverage by the corporation,  
1660 the risk will not be eligible for coverage by the corporation.  
1661 The corporation may deny coverage of a personal lines  
1662 residential risk to an applicant or insured who refuses to  
1663 secure and maintain flood insurance. The requirement to purchase  
1664 flood insurance shall be implemented as follows:

1665 1. Except as provided in subparagraphs 2. and 3., all  
1666 personal lines residential policyholders must have flood  
1667 coverage in place for policies effective on or after:

1668 a. January 1, 2024, for a structure that has a dwelling  
1669 replacement cost of \$600,000 or more.

1670 b. January 1, 2025, for a structure that has a dwelling  
1671 replacement cost of \$500,000 or more.

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1672 c. January 1, 2026, for a structure that has a dwelling  
1673 replacement cost of \$400,000 or more.

1674 d. January 1, 2027, for all other personal lines  
1675 residential property insured by the corporation.

1676 2. All personal lines residential policyholders whose  
1677 property insured by the corporation is located within the  
1678 special flood hazard area defined by the Federal Emergency  
1679 Management Agency must have flood coverage in place:

1680 a. At the time of initial policy issuance for all new  
1681 personal lines residential policies issued by the corporation on  
1682 or after April 1, 2023.

1683 b. By the time of the policy renewal for all personal  
1684 lines residential policies renewing on or after July 1, 2023.

1685 3. Policyholders are not required to purchase flood  
1686 insurance as a condition for maintaining the following policies  
1687 issued by the corporation:

1688 a. Policies that do not provide coverage for the peril of  
1689 wind.

1690 b. Policies that provide coverage under a condominium unit  
1691 owners form.

1692  
1693 The flood insurance required under this paragraph must meet, at  
1694 a minimum, the dwelling coverage available from the National  
1695 Flood Insurance Program or the requirements of subparagraphs s.  
1696 627.715(1)(a)1., 2., and 3.

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1697 (bb) A salaried employee of the corporation who performs  
1698 policy administration services subsequent to the effectuation of  
1699 a corporation policy is not required to be licensed as an agent  
1700 under the provisions of s. 626.112.

1701 (cc) There shall be no liability on the part of, and no  
1702 cause of action of any nature shall arise against, producing  
1703 agents of record of the corporation or employees of such agents  
1704 for insolvency of any take-out insurer.

1705 (dd) The assets of the corporation may be invested and  
1706 managed by the State Board of Administration.

1707 (ee) The office may establish a pilot program to offer  
1708 optional sinkhole coverage in one or more counties or other  
1709 territories of the corporation for the purpose of implementing  
1710 s. 627.706, as amended by s. 30, chapter 2007-1, Laws of  
1711 Florida. Under the pilot program, the corporation is not  
1712 required to issue a notice of nonrenewal to exclude sinkhole  
1713 coverage upon the renewal of existing policies, but may exclude  
1714 such coverage using a notice of coverage change.

1715 (ff) In establishing replacement costs for coverage on a  
1716 dwelling insured by the corporation, the corporation must accept  
1717 a valuation from any of the following sources and must use the  
1718 lowest valuation as the insured value of the dwelling, excluding  
1719 land value, provided the valuation was completed within the 12  
1720 months before the application or renewal date of coverage:

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1721 1. A replacement cost valuation software that is  
1722 specifically designed for use in establishing insurance  
1723 replacement costs and that includes an itemized calculation of  
1724 the cost of reconstruction;

1725 2. A replacement cost valuation prepared by a certified or  
1726 licensed real estate appraiser under part II of chapter 475 that  
1727 is specifically formulated to establish insurance replacement  
1728 cost, rather than market value, and which includes an itemized  
1729 calculation of the cost of reconstruction; or

1730 3. A replacement cost valuation prepared by a general,  
1731 building, or residential contractor licensed under s. 489.113,  
1732 or a professional engineer licensed under s. 471.015, which  
1733 includes an itemized calculation of the total price of  
1734 reconstruction.

1735 (gg) The Office of Inspector General is established within  
1736 the corporation to provide a central point for coordination of  
1737 and responsibility for activities that promote accountability,  
1738 integrity, and efficiency. The office shall be headed by an  
1739 inspector general, which is a senior management position that  
1740 involves planning, coordinating, and performing activities  
1741 assigned to and assumed by the inspector general for the  
1742 corporation.

1743 1. The inspector general shall be appointed by the  
1744 Financial Services Commission and may only be removed from

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1745 office by the commission. The inspector general shall be  
1746 appointed without regard to political affiliation.

1747 a. At a minimum, the inspector general must possess a  
1748 bachelor's degree from an accredited college or university and 8  
1749 years of professional experience related to the duties of an  
1750 inspector general as described in this paragraph, of which 5  
1751 years must have been at a supervisory level.

1752 b. The inspector general shall report to, and be under the  
1753 supervision of, the chair of the board of governors. The  
1754 executive director or corporation staff may not prevent or  
1755 prohibit the inspector general from initiating, carrying out, or  
1756 completing any audit, review, evaluation, study, or  
1757 investigation.

1758 2. The inspector general shall initiate, direct,  
1759 coordinate, participate in, and perform audits, reviews,  
1760 evaluations, studies, and investigations designed to assess  
1761 management practices; compliance with laws, rules, and policies;  
1762 and program effectiveness and efficiency. This includes:

1763 a. Conducting internal examinations; investigating  
1764 allegations of fraud, waste, abuse, malfeasance, mismanagement,  
1765 employee misconduct, or violations of corporation policies; and  
1766 conducting any other investigations as directed by the Financial  
1767 Services Commission or as independently determined.

1768 b. Evaluating and recommending actions regarding security,  
1769 the ethical behavior of personnel and vendors, and compliance

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1770 with rules, laws, policies, and personnel matters; and rendering  
1771 ethics opinions.

1772 c. Evaluating personnel and administrative policy  
1773 compliance, management and operational matters, and human  
1774 resources-related matters.

1775 d. Evaluating the application of a corporation code of  
1776 ethics, providing reviews and recommendations on the design and  
1777 content of ethics-related policy training courses, educating  
1778 employees on the code and on appropriate conduct, and checking  
1779 for compliance.

1780 e. Evaluating the activities of the senior management team  
1781 and management's compliance with recommended solutions.

1782 f. Cooperating and coordinating activities with the chief  
1783 of internal audit.

1784 g. Maintaining records of investigations and discipline in  
1785 accordance with established policies, or as otherwise required.

1786 h. Supervising and directing the tasks and assignments of  
1787 the staff assigned to assist with the inspector general's  
1788 projects, including regular review and feedback regarding work  
1789 in progress and providing recommendations regarding relevant  
1790 training and staff development activities.

1791 i. Directing, planning, preparing, and presenting interim  
1792 and final reports and oral briefings which communicate the  
1793 results of studies, reviews, and investigations.

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1794 j. Providing the executive director with independent and  
1795 objective assessments of programs and activities.

1796 k. Completing special projects, assignments, and other  
1797 duties as requested by the Financial Services Commission.

1798 l. Reporting expeditiously to the Department of Law  
1799 Enforcement or other law enforcement agencies, as appropriate,  
1800 whenever the inspector general has reasonable grounds to believe  
1801 there has been a violation of criminal law.

1802 (hh) The corporation shall prepare a report for each  
1803 calendar year outlining both the statewide average and county-  
1804 specific details of the loss ratio attributable to losses that  
1805 are not catastrophic losses for residential coverage provided by  
1806 the corporation, which information must be presented to the  
1807 office and available for public inspection on the Internet  
1808 website of the corporation by March 1 of the following calendar  
1809 year.

1810 (ii) The corporation shall revise the programs adopted  
1811 pursuant to sub-subparagraph (q)3.a. for personal lines  
1812 residential policies to maximize policyholder options and  
1813 encourage increased participation by insurers and agents. After  
1814 January 1, 2017, a policy may not be taken out of the  
1815 corporation unless the provisions of this paragraph are met.

1816 1. The corporation must publish a periodic schedule of  
1817 cycles during which an insurer may identify, and notify the  
1818 corporation of, policies that the insurer is requesting to take

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1819 out. A request must include a description of the coverage  
1820 offered and an estimated premium and must be submitted to the  
1821 corporation in a form and manner prescribed by the corporation.

1822 2. The corporation must maintain and make available to the  
1823 agent of record a consolidated list of all insurers requesting  
1824 to take out a policy. The list must include a description of the  
1825 coverage offered and the estimated premium for each take-out  
1826 request.

1827 3. If a policyholder receives a take-out offer from an  
1828 authorized insurer, the risk is no longer eligible for coverage  
1829 with the corporation unless the premium for coverage from the  
1830 authorized insurer is more than 20 percent greater than the  
1831 renewal premium for comparable coverage from the corporation  
1832 pursuant to sub-subparagraph (c) 5.d. ~~(e) 5.e.~~ This subparagraph  
1833 applies

1834  
1835 -----

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

1836 Remove line 27 and insert:  
1837 residences and to personal lines residential risks  
1838 that are not primary residences; providing that  
1839 comparisons of comparable  
1840

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