

1 A bill to be entitled
2 An act relating to Citizens Property Insurance
3 Corporation; amending s. 627.351, F.S.; revising
4 circumstances under which certain insurers'
5 association shall levy market equalization surcharges
6 on policyholders; removing obsolete language;
7 providing that certain accounts for Citizens Property
8 Insurance Corporation revenues, assets, liability,
9 losses, and expenses are now maintained as the
10 Citizens account; revising the requirements for
11 certain coverages by the corporation; requiring the
12 inclusion of quota share primary insurance in certain
13 policies; removing provisions relating to legislative
14 goals; conforming provisions to changes made by the
15 act; revising the definition of the term
16 "assessments"; removing provisions relating to
17 surcharges and regular assessments upon determination
18 of certain accounts' projected deficits; removing
19 provisions relating to funds available to the
20 corporation as sources of revenue and bonds; removing
21 definitions; removing provisions relating to the
22 duties of the Florida Surplus Lines Service Office;
23 removing provisions relating to disposition of excess
24 amounts of assessments and surcharges; providing
25 definitions; providing nonapplicability of certain

26 provisions relating to personal lines residential
27 risks coverage by the corporation; requiring insurers
28 to pay, under certain circumstances, producing agents
29 a certain amount or fee if the agents are unable to
30 accept appointment due to failure to be licensed as
31 surplus lines agents; providing nonapplicability of
32 certain payment requirement; revising eligibility for
33 commercial lines residential risks coverage by the
34 corporation; providing that commercial lines
35 residential risks are not eligible for coverage by the
36 corporation under certain circumstances; providing
37 that comparisons of comparable coverages under certain
38 personal lines residential risks and commercial lines
39 residential risks do not apply to policies that do not
40 cover primary residences; revising the corporation's
41 plan of operation; revising the required statements
42 from applicants for coverage; revising the duties of
43 the executive director of the corporation; authorizing
44 the executive director to assign and appoint
45 designees; removing a nonapplicability provision
46 relating to bond requirements; removing obsolete
47 language; requiring new insurers to pay, under certain
48 circumstances, producing agents a certain amount or
49 fee if the agents are unable to accept appointment due
50 to failure to be licensed as surplus lines agents;

51 removing provisions relating to certain insurer
 52 assessment deferments; removing provisions relating to
 53 the intangibles of and coverage by the Florida
 54 Windstorm Underwriting Association and the corporation
 55 coastal account; authorizing the corporation and
 56 certain persons to make specified information obtained
 57 from underwriting files and confidential claims files
 58 available to licensed surplus lines agents;
 59 prohibiting such agents from using such information
 60 for specified purposes; providing nonapplicability of
 61 provisions relating to take-out offers that are part
 62 of applications to participate in depopulation;
 63 authorizing the corporation to share its claims data
 64 with a specified entity; creating new eligibility
 65 criteria for coverage by the corporation; revising the
 66 flood coverage requirements for personal lines
 67 residential policyholders; amending s. 627.3511, F.S.;
 68 conforming provisions to changes made by the act;
 69 conforming cross-references; amending s. 627.3518,
 70 F.S.; providing nonapplicability of provisions
 71 relating to noneligibility for coverage by the
 72 corporation; providing effective dates.

73
 74 Be It Enacted by the Legislature of the State of Florida:
 75

76 Section 1. Subsection (7) of section 627.351, Florida
 77 Statutes, is renumbered as subsection (8), paragraph (b) of
 78 subsection (2) and subsection (6) are amended, and a new
 79 subsection (7) is added to that section, to read:

80 627.351 Insurance risk apportionment plans.—

81 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

82 (b) The department shall require all insurers holding a
 83 certificate of authority to transact property insurance on a
 84 direct basis in this state, other than joint underwriting
 85 associations and other entities formed pursuant to this section,
 86 to provide windstorm coverage to applicants from areas
 87 determined to be eligible pursuant to paragraph (c) who in good
 88 faith are entitled to, but are unable to procure, such coverage
 89 through ordinary means; or it shall adopt a reasonable plan or
 90 plans for the equitable apportionment or sharing among such
 91 insurers of windstorm coverage, which may include formation of
 92 an association for this purpose. As used in this subsection, the
 93 term "property insurance" means insurance on real or personal
 94 property, as defined in s. 624.604, including insurance for
 95 fire, industrial fire, allied lines, farmowners multiperil,
 96 homeowners multiperil, commercial multiperil, and mobile homes,
 97 and including liability coverages on all such insurance, but
 98 excluding inland marine as defined in s. 624.607(3) and
 99 excluding vehicle insurance as defined in s. 624.605(1)(a) other
 100 than insurance on mobile homes used as permanent dwellings. The

101 department shall adopt rules that provide a formula for the
 102 recovery and repayment of any deferred assessments.

103 1. For the purpose of this section, properties eligible
 104 for such windstorm coverage are defined as dwellings, buildings,
 105 and other structures, including mobile homes which are used as
 106 dwellings and which are tied down in compliance with mobile home
 107 tie-down requirements prescribed by the Department of Highway
 108 Safety and Motor Vehicles pursuant to s. 320.8325, and the
 109 contents of all such properties. An applicant or policyholder is
 110 eligible for coverage only if an offer of coverage cannot be
 111 obtained by or for the applicant or policyholder from an
 112 admitted insurer at approved rates.

113 2.a.(I) All insurers required to be members of such
 114 association shall participate in its writings, expenses, and
 115 losses. Surplus of the association shall be retained for the
 116 payment of claims and shall not be distributed to the member
 117 insurers. Such participation by member insurers shall be in the
 118 proportion that the net direct premiums of each member insurer
 119 written for property insurance in this state during the
 120 preceding calendar year bear to the aggregate net direct
 121 premiums for property insurance of all member insurers, as
 122 reduced by any credits for voluntary writings, in this state
 123 during the preceding calendar year. For the purposes of this
 124 subsection, the term "net direct premiums" means direct written
 125 premiums for property insurance, reduced by premium for

126 liability coverage and for the following if included in allied
127 lines: rain and hail on growing crops; livestock; association
128 direct premiums booked; National Flood Insurance Program direct
129 premiums; and similar deductions specifically authorized by the
130 plan of operation and approved by the department. A member's
131 participation shall begin on the first day of the calendar year
132 following the year in which it is issued a certificate of
133 authority to transact property insurance in the state and shall
134 terminate 1 year after the end of the calendar year during which
135 it no longer holds a certificate of authority to transact
136 property insurance in the state. The commissioner, after review
137 of annual statements, other reports, and any other statistics
138 that the commissioner deems necessary, shall certify to the
139 association the aggregate direct premiums written for property
140 insurance in this state by all member insurers.

141 (II) Effective July 1, 2002, the association shall operate
142 subject to the supervision and approval of a board of governors
143 who are the same individuals that have been appointed by the
144 Treasurer to serve on the board of governors of the Citizens
145 Property Insurance Corporation.

146 (III) The plan of operation shall provide a formula
147 whereby a company voluntarily providing windstorm coverage in
148 affected areas will be relieved wholly or partially from
149 apportionment of a regular assessment pursuant to sub-sub-
150 subparagraph d. (I) or sub-sub-subparagraph d. (II).

151 (IV) A company which is a member of a group of companies
 152 under common management may elect to have its credits applied on
 153 a group basis, and any company or group may elect to have its
 154 credits applied to any other company or group.

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

158 (VI) The plan of operation may also provide for the award
 159 of credits, for a period not to exceed 3 years, from a regular
 160 assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-
 161 subparagraph d.(II) as an incentive for taking policies out of
 162 the Residential Property and Casualty Joint Underwriting
 163 Association. In order to qualify for the exemption under this
 164 sub-sub-subparagraph, the take-out plan must provide that at
 165 least 40 percent of the policies removed from the Residential
 166 Property and Casualty Joint Underwriting Association cover risks
 167 located in Miami-Dade, Broward, and Palm Beach Counties or at
 168 least 30 percent of the policies so removed cover risks located
 169 in Miami-Dade, Broward, and Palm Beach Counties and an
 170 additional 50 percent of the policies so removed cover risks
 171 located in other coastal counties, and must also provide that no
 172 more than 15 percent of the policies so removed may exclude
 173 windstorm coverage. With the approval of the department, the
 174 association may waive these geographic criteria for a take-out
 175 plan that removes at least the lesser of 100,000 Residential

176 Property and Casualty Joint Underwriting Association policies or
 177 15 percent of the total number of Residential Property and
 178 Casualty Joint Underwriting Association policies, provided the
 179 governing board of the Residential Property and Casualty Joint
 180 Underwriting Association certifies that the take-out plan will
 181 materially reduce the Residential Property and Casualty Joint
 182 Underwriting Association's 100-year probable maximum loss from
 183 hurricanes. With the approval of the department, the board may
 184 extend such credits for an additional year if the insurer
 185 guarantees an additional year of renewability for all policies
 186 removed from the Residential Property and Casualty Joint
 187 Underwriting Association, or for 2 additional years if the
 188 insurer guarantees 2 additional years of renewability for all
 189 policies removed from the Residential Property and Casualty
 190 Joint Underwriting Association.

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

194 c. The Legislature finds that the potential for unlimited
 195 deficit assessments under this subparagraph may induce insurers
 196 to attempt to reduce their writings in the voluntary market, and
 197 that such actions would worsen the availability problems that
 198 the association was created to remedy. It is the intent of the
 199 Legislature that insurers remain fully responsible for paying
 200 regular assessments and collecting emergency assessments for any

201 deficits of the association; however, it is also the intent of
 202 the Legislature to provide a means by which assessment
 203 liabilities may be amortized over a period of years.

204 d.(I) When the deficit incurred in a particular calendar
 205 year is 10 percent or less of the aggregate statewide direct
 206 written premium for property insurance for the prior calendar
 207 year for all member insurers, the association shall levy an
 208 assessment on member insurers in an amount equal to the deficit.

209 (II) When the deficit incurred in a particular calendar
 210 year exceeds 10 percent of the aggregate statewide direct
 211 written premium for property insurance for the prior calendar
 212 year for all member insurers, the association shall levy an
 213 assessment on member insurers in an amount equal to the greater
 214 of 10 percent of the deficit or 10 percent of the aggregate
 215 statewide direct written premium for property insurance for the
 216 prior calendar year for member insurers. Any remaining deficit
 217 shall be recovered through emergency assessments under sub-sub-
 218 subparagraph (III).

219 (III) Upon a determination by the board of directors that
 220 a deficit exceeds the amount that will be recovered through
 221 regular assessments on member insurers, pursuant to sub-sub-
 222 subparagraph (I) or sub-sub-subparagraph (II), the board shall
 223 levy, after verification by the department, emergency
 224 assessments to be collected by member insurers and by
 225 underwriting associations created pursuant to this section which

226 write property insurance, upon issuance or renewal of property
 227 insurance policies other than National Flood Insurance policies
 228 in the year or years following levy of the regular assessments.
 229 The amount of the emergency assessment collected in a particular
 230 year shall be a uniform percentage of that year's direct written
 231 premium for property insurance for all member insurers and
 232 underwriting associations, excluding National Flood Insurance
 233 policy premiums, as annually determined by the board and
 234 verified by the department. The department shall verify the
 235 arithmetic calculations involved in the board's determination
 236 within 30 days after receipt of the information on which the
 237 determination was based. Notwithstanding any other provision of
 238 law, each member insurer and each underwriting association
 239 created pursuant to this section shall collect emergency
 240 assessments from its policyholders without such obligation being
 241 affected by any credit, limitation, exemption, or deferment. The
 242 emergency assessments so collected shall be transferred directly
 243 to the association on a periodic basis as determined by the
 244 association. The aggregate amount of emergency assessments
 245 levied under this sub-sub-subparagraph in any calendar year may
 246 not exceed the greater of 10 percent of the amount needed to
 247 cover the original deficit, plus interest, fees, commissions,
 248 required reserves, and other costs associated with financing of
 249 the original deficit, or 10 percent of the aggregate statewide
 250 direct written premium for property insurance written by member

251 insurers and underwriting associations for the prior year, plus
252 interest, fees, commissions, required reserves, and other costs
253 associated with financing the original deficit. The board may
254 pledge the proceeds of the emergency assessments under this sub-
255 sub-subparagraph as the source of revenue for bonds, to retire
256 any other debt incurred as a result of the deficit or events
257 giving rise to the deficit, or in any other way that the board
258 determines will efficiently recover the deficit. The emergency
259 assessments under this sub-sub-subparagraph shall continue as
260 long as any bonds issued or other indebtedness incurred with
261 respect to a deficit for which the assessment was imposed remain
262 outstanding, unless adequate provision has been made for the
263 payment of such bonds or other indebtedness pursuant to the
264 document governing such bonds or other indebtedness. Emergency
265 assessments collected under this sub-sub-subparagraph are not
266 part of an insurer's rates, are not premium, and are not subject
267 to premium tax, fees, or commissions; however, failure to pay
268 the emergency assessment shall be treated as failure to pay
269 premium.

270 (IV) Each member insurer's share of the total regular
271 assessments under sub-sub-subparagraph (I) or sub-sub-
272 subparagraph (II) shall be in the proportion that the insurer's
273 net direct premium for property insurance in this state, for the
274 year preceding the assessment bears to the aggregate statewide
275 net direct premium for property insurance of all member

276 insurers, as reduced by any credits for voluntary writings for
 277 that year.

278 (V) If regular deficit assessments are made under sub-sub-
 279 subparagraph (I) or sub-sub-subparagraph (II), ~~or by the~~
 280 ~~Residential Property and Casualty Joint Underwriting Association~~
 281 ~~under sub-subparagraph (6)(b)3.a.~~, the association shall levy
 282 upon the association's policyholders, as part of its next rate
 283 filing, or by a separate rate filing solely for this purpose, a
 284 market equalization surcharge in a percentage equal to the total
 285 amount of such regular assessments divided by the aggregate
 286 statewide direct written premium for property insurance for
 287 member insurers for the prior calendar year. Market equalization
 288 surcharges under this sub-sub-subparagraph are not considered
 289 premium and are not subject to commissions, fees, or premium
 290 taxes; however, failure to pay a market equalization surcharge
 291 shall be treated as failure to pay premium.

292 e. The governing body of any unit of local government, any
 293 residents of which are insured under the plan, may issue bonds
 294 as defined in s. 125.013 or s. 166.101 to fund an assistance
 295 program, in conjunction with the association, for the purpose of
 296 defraying deficits of the association. In order to avoid
 297 needless and indiscriminate proliferation, duplication, and
 298 fragmentation of such assistance programs, any unit of local
 299 government, any residents of which are insured by the
 300 association, may provide for the payment of losses, regardless

301 of whether or not the losses occurred within or outside of the
302 territorial jurisdiction of the local government. Revenue bonds
303 may not be issued until validated pursuant to chapter 75, unless
304 a state of emergency is declared by executive order or
305 proclamation of the Governor pursuant to s. 252.36 making such
306 findings as are necessary to determine that it is in the best
307 interests of, and necessary for, the protection of the public
308 health, safety, and general welfare of residents of this state
309 and the protection and preservation of the economic stability of
310 insurers operating in this state, and declaring it an essential
311 public purpose to permit certain municipalities or counties to
312 issue bonds as will provide relief to claimants and
313 policyholders of the association and insurers responsible for
314 apportionment of plan losses. Any such unit of local government
315 may enter into such contracts with the association and with any
316 other entity created pursuant to this subsection as are
317 necessary to carry out this paragraph. Any bonds issued under
318 this sub-subparagraph shall be payable from and secured by
319 moneys received by the association from assessments under this
320 subparagraph, and assigned and pledged to or on behalf of the
321 unit of local government for the benefit of the holders of such
322 bonds. The funds, credit, property, and taxing power of the
323 state or of the unit of local government shall not be pledged
324 for the payment of such bonds. If any of the bonds remain unsold
325 60 days after issuance, the department shall require all

326 insurers subject to assessment to purchase the bonds, which
327 shall be treated as admitted assets; each insurer shall be
328 required to purchase that percentage of the unsold portion of
329 the bond issue that equals the insurer's relative share of
330 assessment liability under this subsection. An insurer shall not
331 be required to purchase the bonds to the extent that the
332 department determines that the purchase would endanger or impair
333 the solvency of the insurer. The authority granted by this sub-
334 subparagraph is additional to any bonding authority granted by
335 subparagraph 6.

336 3. The plan shall also provide that any member with a
337 surplus as to policyholders of \$25 million or less writing 25
338 percent or more of its total countrywide property insurance
339 premiums in this state may petition the department, within the
340 first 90 days of each calendar year, to qualify as a limited
341 apportionment company. The apportionment of such a member
342 company in any calendar year for which it is qualified shall not
343 exceed its gross participation, which shall not be affected by
344 the formula for voluntary writings. In no event shall a limited
345 apportionment company be required to participate in any
346 apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I)
347 or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds
348 \$50 million after payment of available plan funds in any
349 calendar year. However, a limited apportionment company shall
350 collect from its policyholders any emergency assessment imposed

351 under sub-sub-subparagraph 2.d.(III). The plan shall provide
 352 that, if the department determines that any regular assessment
 353 will result in an impairment of the surplus of a limited
 354 apportionment company, the department may direct that all or
 355 part of such assessment be deferred. However, there shall be no
 356 limitation or deferment of an emergency assessment to be
 357 collected from policyholders under sub-sub-subparagraph
 358 2.d.(III).

359 4. The plan shall provide for the deferment, in whole or
 360 in part, of a regular assessment of a member insurer under sub-
 361 sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but
 362 not for an emergency assessment collected from policyholders
 363 under sub-sub-subparagraph 2.d.(III), if, in the opinion of the
 364 commissioner, payment of such regular assessment would endanger
 365 or impair the solvency of the member insurer. In the event a
 366 regular assessment against a member insurer is deferred in whole
 367 or in part, the amount by which such assessment is deferred may
 368 be assessed against the other member insurers in a manner
 369 consistent with the basis for assessments set forth in sub-sub-
 370 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

371 5.a. The plan of operation may include deductibles and
 372 rules for classification of risks and rate modifications
 373 consistent with the objective of providing and maintaining funds
 374 sufficient to pay catastrophe losses.

375 b. It is the intent of the Legislature that the rates for

376 coverage provided by the association be actuarially sound and
377 not competitive with approved rates charged in the admitted
378 voluntary market such that the association functions as a
379 residual market mechanism to provide insurance only when the
380 insurance cannot be procured in the voluntary market. The plan
381 of operation shall provide a mechanism to assure that, beginning
382 no later than January 1, 1999, the rates charged by the
383 association for each line of business are reflective of approved
384 rates in the voluntary market for hurricane coverage for each
385 line of business in the various areas eligible for association
386 coverage.

387 c. The association shall provide for windstorm coverage on
388 residential properties in limits up to \$10 million for
389 commercial lines residential risks and up to \$1 million for
390 personal lines residential risks. If coverage with the
391 association is sought for a residential risk valued in excess of
392 these limits, coverage shall be available to the risk up to the
393 replacement cost or actual cash value of the property, at the
394 option of the insured, if coverage for the risk cannot be
395 located in the authorized market. The association must accept a
396 commercial lines residential risk with limits above \$10 million
397 or a personal lines residential risk with limits above \$1
398 million if coverage is not available in the authorized market.
399 The association may write coverage above the limits specified in
400 this subparagraph with or without facultative or other

401 reinsurance coverage, as the association determines appropriate.

402 d. The plan of operation must provide objective criteria
403 and procedures, approved by the department, to be uniformly
404 applied for all applicants in determining whether an individual
405 risk is so hazardous as to be uninsurable. In making this
406 determination and in establishing the criteria and procedures,
407 the following shall be considered:

408 (I) Whether the likelihood of a loss for the individual
409 risk is substantially higher than for other risks of the same
410 class; and

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

414

415 The acceptance or rejection of a risk by the association
416 pursuant to such criteria and procedures must be construed as
417 the private placement of insurance, and the provisions of
418 chapter 120 do not apply.

419 e. If the risk accepts an offer of coverage through the
420 market assistance program or through a mechanism established by
421 the association, either before the policy is issued by the
422 association or during the first 30 days of coverage by the
423 association, and the producing agent who submitted the
424 application to the association is not currently appointed by the
425 insurer, the insurer shall:

426 (I) Pay to the producing agent of record of the policy,
 427 for the first year, an amount that is the greater of the
 428 insurer's usual and customary commission for the type of policy
 429 written or a fee equal to the usual and customary commission of
 430 the association; or

431 (II) Offer to allow the producing agent of record of the
 432 policy to continue servicing the policy for a period of not less
 433 than 1 year and offer to pay the agent the greater of the
 434 insurer's or the association's usual and customary commission
 435 for the type of policy written.

436
 437 If the producing agent is unwilling or unable to accept
 438 appointment, the new insurer shall pay the agent in accordance
 439 with sub-sub-subparagraph (I). Subject to the provisions of s.
 440 627.3517, the policies issued by the association must provide
 441 that if the association obtains an offer from an authorized
 442 insurer to cover the risk at its approved rates under either a
 443 standard policy including wind coverage or, if consistent with
 444 the insurer's underwriting rules as filed with the department, a
 445 basic policy including wind coverage, the risk is no longer
 446 eligible for coverage through the association. Upon termination
 447 of eligibility, the association shall provide written notice to
 448 the policyholder and agent of record stating that the
 449 association policy must be canceled as of 60 days after the date
 450 of the notice because of the offer of coverage from an

451 authorized insurer. Other provisions of the insurance code
452 relating to cancellation and notice of cancellation do not apply
453 to actions under this sub-subparagraph.

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

458 (I) Pay to the producing agent of record of the
459 association policy, for the first year, an amount that is the
460 greater of the insurer's usual and customary commission for the
461 type of policy written or a fee equal to the usual and customary
462 commission of the association; or

463 (II) Offer to allow the producing agent of record of the
464 association policy to continue servicing the policy for a period
465 of not less than 1 year and offer to pay the agent the greater
466 of the insurer's or the association's usual and customary
467 commission for the type of policy written.

468
469 If the producing agent is unwilling or unable to accept
470 appointment, the new insurer shall pay the agent in accordance
471 with sub-sub-subparagraph (I).

472 6.a. The plan of operation may authorize the formation of
473 a private nonprofit corporation, a private nonprofit
474 unincorporated association, a partnership, a trust, a limited
475 liability company, or a nonprofit mutual company which may be

476 empowered, among other things, to borrow money by issuing bonds
477 or by incurring other indebtedness and to accumulate reserves or
478 funds to be used for the payment of insured catastrophe losses.
479 The plan may authorize all actions necessary to facilitate the
480 issuance of bonds, including the pledging of assessments or
481 other revenues.

482 b. Any entity created under this subsection, or any entity
483 formed for the purposes of this subsection, may sue and be sued,
484 may borrow money; issue bonds, notes, or debt instruments;
485 pledge or sell assessments, market equalization surcharges and
486 other surcharges, rights, premiums, contractual rights,
487 projected recoveries from the Florida Hurricane Catastrophe
488 Fund, other reinsurance recoverables, and other assets as
489 security for such bonds, notes, or debt instruments; enter into
490 any contracts or agreements necessary or proper to accomplish
491 such borrowings; and take other actions necessary to carry out
492 the purposes of this subsection. The association may issue bonds
493 or incur other indebtedness, or have bonds issued on its behalf
494 by a unit of local government pursuant to subparagraph (6)(q)2.,
495 in the absence of a hurricane or other weather-related event,
496 upon a determination by the association subject to approval by
497 the department that such action would enable it to efficiently
498 meet the financial obligations of the association and that such
499 financings are reasonably necessary to effectuate the
500 requirements of this subsection. Any such entity may accumulate

501 reserves and retain surpluses as of the end of any association
502 year to provide for the payment of losses incurred by the
503 association during that year or any future year. The association
504 shall incorporate and continue the plan of operation and
505 articles of agreement in effect on the effective date of chapter
506 76-96, Laws of Florida, to the extent that it is not
507 inconsistent with chapter 76-96, and as subsequently modified
508 consistent with chapter 76-96. The board of directors and
509 officers currently serving shall continue to serve until their
510 successors are duly qualified as provided under the plan. The
511 assets and obligations of the plan in effect immediately prior
512 to the effective date of chapter 76-96 shall be construed to be
513 the assets and obligations of the successor plan created herein.

514 c. In recognition of s. 10, Art. I of the State
515 Constitution, prohibiting the impairment of obligations of
516 contracts, it is the intent of the Legislature that no action be
517 taken whose purpose is to impair any bond indenture or financing
518 agreement or any revenue source committed by contract to such
519 bond or other indebtedness issued or incurred by the association
520 or any other entity created under this subsection.

521 7. On such coverage, an agent's remuneration shall be that
522 amount of money payable to the agent by the terms of his or her
523 contract with the company with which the business is placed.
524 However, no commission will be paid on that portion of the
525 premium which is in excess of the standard premium of that

526 | company.

527 | 8. Subject to approval by the department, the association
528 | may establish different eligibility requirements and operational
529 | procedures for any line or type of coverage for any specified
530 | eligible area or portion of an eligible area if the board
531 | determines that such changes to the eligibility requirements and
532 | operational procedures are justified due to the voluntary market
533 | being sufficiently stable and competitive in such area or for
534 | such line or type of coverage and that consumers who, in good
535 | faith, are unable to obtain insurance through the voluntary
536 | market through ordinary methods would continue to have access to
537 | coverage from the association. When coverage is sought in
538 | connection with a real property transfer, such requirements and
539 | procedures shall not provide for an effective date of coverage
540 | later than the date of the closing of the transfer as
541 | established by the transferor, the transferee, and, if
542 | applicable, the lender.

543 | 9. Notwithstanding any other provision of law:

544 | a. The pledge or sale of, the lien upon, and the security
545 | interest in any rights, revenues, or other assets of the
546 | association created or purported to be created pursuant to any
547 | financing documents to secure any bonds or other indebtedness of
548 | the association shall be and remain valid and enforceable,
549 | notwithstanding the commencement of and during the continuation
550 | of, and after, any rehabilitation, insolvency, liquidation,

551 bankruptcy, receivership, conservatorship, reorganization, or
 552 similar proceeding against the association under the laws of
 553 this state or any other applicable laws.

554 b. No such proceeding shall relieve the association of its
 555 obligation, or otherwise affect its ability to perform its
 556 obligation, to continue to collect, or levy and collect,
 557 assessments, market equalization or other surcharges, projected
 558 recoveries from the Florida Hurricane Catastrophe Fund,
 559 reinsurance recoverables, or any other rights, revenues, or
 560 other assets of the association pledged.

561 c. Each such pledge or sale of, lien upon, and security
 562 interest in, including the priority of such pledge, lien, or
 563 security interest, any such assessments, emergency assessments,
 564 market equalization or renewal surcharges, projected recoveries
 565 from the Florida Hurricane Catastrophe Fund, reinsurance
 566 recoverables, or other rights, revenues, or other assets which
 567 are collected, or levied and collected, after the commencement
 568 of and during the pendency of or after any such proceeding shall
 569 continue unaffected by such proceeding.

570 d. As used in this subsection, the term "financing
 571 documents" means any agreement, instrument, or other document
 572 now existing or hereafter created evidencing any bonds or other
 573 indebtedness of the association or pursuant to which any such
 574 bonds or other indebtedness has been or may be issued and
 575 pursuant to which any rights, revenues, or other assets of the

576 association are pledged or sold to secure the repayment of such
577 bonds or indebtedness, together with the payment of interest on
578 such bonds or such indebtedness, or the payment of any other
579 obligation of the association related to such bonds or
580 indebtedness.

581 e. Any such pledge or sale of assessments, revenues,
582 contract rights or other rights or assets of the association
583 shall constitute a lien and security interest, or sale, as the
584 case may be, that is immediately effective and attaches to such
585 assessments, revenues, contract, or other rights or assets,
586 whether or not imposed or collected at the time the pledge or
587 sale is made. Any such pledge or sale is effective, valid,
588 binding, and enforceable against the association or other entity
589 making such pledge or sale, and valid and binding against and
590 superior to any competing claims or obligations owed to any
591 other person or entity, including policyholders in this state,
592 asserting rights in any such assessments, revenues, contract, or
593 other rights or assets to the extent set forth in and in
594 accordance with the terms of the pledge or sale contained in the
595 applicable financing documents, whether or not any such person
596 or entity has notice of such pledge or sale and without the need
597 for any physical delivery, recordation, filing, or other action.

598 f. There shall be no liability on the part of, and no
599 cause of action of any nature shall arise against, any member
600 insurer or its agents or employees, agents or employees of the

601 association, members of the board of directors of the
 602 association, or the department or its representatives, for any
 603 action taken by them in the performance of their duties or
 604 responsibilities under this subsection. Such immunity does not
 605 apply to actions for breach of any contract or agreement
 606 pertaining to insurance, or any willful tort.

607 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

611 1. The Legislature finds that private insurers are
 612 unwilling or unable to provide affordable property insurance
 613 coverage in this state to the extent sought and needed. The
 614 absence of affordable property insurance threatens the public
 615 health, safety, and welfare and likewise threatens the economic
 616 health of the state. The state therefore has a compelling public
 617 interest and a public purpose to assist in assuring that
 618 property in the state is insured and that it is insured at
 619 affordable rates so as to facilitate the remediation,
 620 reconstruction, and replacement of damaged or destroyed property
 621 in order to reduce or avoid the negative effects otherwise
 622 resulting to the public health, safety, and welfare, to the
 623 economy of the state, and to the revenues of the state and local
 624 governments which are needed to provide for the public welfare.
 625 It is necessary, therefore, to provide affordable property

626 insurance to applicants who are in good faith entitled to
627 procure insurance through the voluntary market but are unable to
628 do so. The Legislature intends, therefore, that affordable
629 property insurance be provided and that it continue to be
630 provided, as long as necessary, through Citizens Property
631 Insurance Corporation, a government entity that is an integral
632 part of the state, and that is not a private insurance company.
633 To that end, the corporation shall strive to increase the
634 availability of affordable property insurance in this state,
635 while achieving efficiencies and economies, and while providing
636 service to policyholders, applicants, and agents which is no
637 less than the quality generally provided in the voluntary
638 market, for the achievement of the foregoing public purposes.
639 Because it is essential for this government entity to have the
640 maximum financial resources to pay claims following a
641 catastrophic hurricane, it is the intent of the Legislature that
642 the corporation continue to be an integral part of the state and
643 that the income of the corporation be exempt from federal income
644 taxation and that interest on the debt obligations issued by the
645 corporation be exempt from federal income taxation.

646 2. The Residential Property and Casualty Joint
647 Underwriting Association originally created by this statute
648 shall be known as the Citizens Property Insurance Corporation.
649 The corporation shall provide insurance for residential and
650 commercial property, for applicants who are entitled, but, in

651 good faith, are unable to procure insurance through the
652 voluntary market. The corporation shall operate pursuant to a
653 plan of operation approved by order of the Financial Services
654 Commission. The plan is subject to continuous review by the
655 commission. The commission may, by order, withdraw approval of
656 all or part of a plan if the commission determines that
657 conditions have changed since approval was granted and that the
658 purposes of the plan require changes in the plan. For the
659 purposes of this subsection, residential coverage includes both
660 personal lines residential coverage, which consists of the type
661 of coverage provided by homeowner, mobile home owner, dwelling,
662 tenant, condominium unit owner, and similar policies; and
663 commercial lines residential coverage, which consists of the
664 type of coverage provided by condominium association, apartment
665 building, and similar policies.

666 3. With respect to coverage for personal lines residential
667 structures:

668 ~~a. Effective January 1, 2014, a structure that has a~~
669 ~~dwelling replacement cost of \$1 million or more, or a single~~
670 ~~condominium unit that has a combined dwelling and contents~~
671 ~~replacement cost of \$1 million or more, is not eligible for~~
672 ~~coverage by the corporation. Such dwellings insured by the~~
673 ~~corporation on December 31, 2013, may continue to be covered by~~
674 ~~the corporation until the end of the policy term. The office~~
675 ~~shall approve the method used by the corporation for valuing the~~

676 ~~dwelling replacement cost for the purposes of this subparagraph.~~
677 ~~If a policyholder is insured by the corporation before being~~
678 ~~determined to be ineligible pursuant to this subparagraph and~~
679 ~~such policyholder files a lawsuit challenging the determination,~~
680 ~~the policyholder may remain insured by the corporation until the~~
681 ~~conclusion of the litigation.~~

682 ~~b. Effective January 1, 2015, a structure that has a~~
683 ~~dwelling replacement cost of \$900,000 or more, or a single~~
684 ~~condominium unit that has a combined dwelling and contents~~
685 ~~replacement cost of \$900,000 or more, is not eligible for~~
686 ~~coverage by the corporation. Such dwellings insured by the~~
687 ~~corporation on December 31, 2014, may continue to be covered by~~
688 ~~the corporation only until the end of the policy term.~~

689 ~~e. Effective January 1, 2016, a structure that has a~~
690 ~~dwelling replacement cost of \$800,000 or more, or a single~~
691 ~~condominium unit that has a combined dwelling and contents~~
692 ~~replacement cost of \$800,000 or more, is not eligible for~~
693 ~~coverage by the corporation. Such dwellings insured by the~~
694 ~~corporation on December 31, 2015, may continue to be covered by~~
695 ~~the corporation until the end of the policy term.~~

696 ~~a.d.~~ Effective January 1, 2017, a structure that has a
697 dwelling replacement cost of \$700,000 or more, or a single
698 condominium unit that has a combined dwelling and contents
699 replacement cost of \$700,000 or more, is not eligible for
700 coverage by the corporation. Such dwellings insured by the

701 ~~corporation on December 31, 2016, may continue to be covered by~~
702 ~~the corporation until the end of the policy term.~~

703 b. The requirements of sub-subparagraph a. ~~sub-~~
704 ~~subparagraphs b.-d.~~ do not apply in counties where the office
705 determines there is not a reasonable degree of competition. In
706 such counties a personal lines residential structure that has a
707 dwelling replacement cost of less than \$1 million, or a single
708 condominium unit that has a combined dwelling and contents
709 replacement cost of less than \$1 million, is eligible for
710 coverage by the corporation.

711 4. It is the intent of the Legislature that policyholders,
712 applicants, and agents of the corporation receive service and
713 treatment of the highest possible level but never less than that
714 generally provided in the voluntary market. It is also intended
715 that the corporation be held to service standards no less than
716 those applied to insurers in the voluntary market by the office
717 with respect to responsiveness, timeliness, customer courtesy,
718 and overall dealings with policyholders, applicants, or agents
719 of the corporation.

720 5.a. Effective January 1, 2009, a personal lines
721 residential structure that is located in the "wind-borne debris
722 region," as defined in s. 1609.2, International Building Code
723 (2006), and that has an insured value on the structure of
724 \$750,000 or more is not eligible for coverage by the corporation
725 unless the structure has opening protections as required under

726 the Florida Building Code for a newly constructed residential
727 structure in that area. A residential structure is deemed to
728 comply with this sub-subparagraph if it has shutters or opening
729 protections on all openings and if such opening protections
730 complied with the Florida Building Code at the time they were
731 installed.

732 b. Any major structure, as defined in s. 161.54(6)(a),
733 that is newly constructed, or rebuilt, repaired, restored, or
734 remodeled to increase the total square footage of finished area
735 by more than 25 percent, pursuant to a permit applied for after
736 July 1, 2015, is not eligible for coverage by the corporation if
737 the structure is seaward of the coastal construction control
738 line established pursuant to s. 161.053 or is within the Coastal
739 Barrier Resources System as designated by 16 U.S.C. ss. 3501-
740 3510.

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

746 (b)1. All insurers authorized to write one or more subject
747 lines of business in this state are subject to assessment by the
748 corporation and, for the purposes of this subsection, are
749 referred to collectively as "assessable insurers." Insurers
750 writing one or more subject lines of business in this state

751 pursuant to part VIII of chapter 626 are not assessable
752 insurers; however, insureds who procure one or more subject
753 lines of business in this state pursuant to part VIII of chapter
754 626 are subject to assessment by the corporation and are
755 referred to collectively as "assessable insureds." An insurer's
756 assessment liability begins on the first day of the calendar
757 year following the year in which the insurer was issued a
758 certificate of authority to transact insurance for subject lines
759 of business in this state and terminates 1 year after the end of
760 the first calendar year during which the insurer no longer holds
761 a certificate of authority to transact insurance for subject
762 lines of business in this state.

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

767 ~~a.(I)~~ A personal lines account for Personal residential
768 policies that provide ~~issued by the corporation which provides~~
769 comprehensive, multiperil coverage on risks that are not located
770 in areas eligible for coverage by the Florida Windstorm
771 Underwriting Association as those areas were defined on January
772 1, 2002, and for policies that do not provide coverage for the
773 peril of wind on risks that are located in such areas;

774 ~~b.(II)~~ A commercial lines account for Commercial
775 residential and commercial nonresidential policies that provide

776 ~~issued by the corporation which provides~~ coverage for basic
 777 property perils on risks that are not located in areas eligible
 778 for coverage by the Florida Windstorm Underwriting Association
 779 as those areas were defined on January 1, 2002, and for policies
 780 that do not provide coverage for the peril of wind on risks that
 781 are located in such areas; and

782 c.(III) ~~A Coastal account for~~ Personal residential
 783 policies and commercial residential and commercial
 784 nonresidential property policies that provide ~~issued by the~~
 785 ~~corporation which provides~~ coverage for the peril of wind on
 786 risks that are located in areas eligible for coverage by the
 787 Florida Windstorm Underwriting Association, as those areas were
 788 defined on January 1, 2002. The corporation may offer policies
 789 that provide multiperil coverage and shall offer policies that
 790 provide coverage only for the peril of wind for risks located in
 791 areas eligible for coverage by the Florida Windstorm
 792 Underwriting Association, as those areas were defined on January
 793 1, 2002 in the coastal account. Effective July 1, 2014, The
 794 corporation may not offer ~~shall cease offering~~ new commercial
 795 residential policies providing multiperil coverage but ~~and~~ shall
 796 ~~instead~~ continue to offer commercial residential wind-only
 797 policies, and may offer commercial residential policies
 798 excluding wind. However, the corporation may, ~~however,~~ continue
 799 to renew a commercial residential multiperil policy on a
 800 building that was ~~is~~ insured by the corporation on June 30,

801 2014, under a multiperil policy. In issuing multiperil coverage
802 under this sub-subparagraph, the corporation may use its
803 approved policy forms and rates for risks located in areas not
804 eligible for coverage by the Florida Windstorm Underwriting
805 Association, as those areas were defined on January 1, 2002, and
806 for policies that do not provide coverage for the peril of wind
807 on risks that are located in such areas ~~the personal lines~~
808 ~~account~~. An applicant or insured who is eligible to purchase a
809 multiperil policy from the corporation may purchase a multiperil
810 policy from an authorized insurer without prejudice to the
811 applicant's or insured's eligibility to prospectively purchase a
812 policy that provides coverage only for the peril of wind from
813 the corporation. An applicant or insured who is eligible for a
814 corporation policy that provides coverage only for the peril of
815 wind may elect to purchase or retain such policy and also
816 purchase or retain coverage excluding wind from an authorized
817 insurer without prejudice to the applicant's or insured's
818 eligibility to prospectively purchase a policy that provides
819 multiperil coverage from the corporation. The following
820 policies, which provide coverage only for the peril of wind,
821 must also include quota share primary insurance under
822 subparagraph (c)2.:

823 (I) Personal residential policies and commercial
824 residential and commercial nonresidential property policies that
825 provide coverage for the peril of wind on risks that are located

826 in areas eligible for coverage by the Florida Windstorm
 827 Underwriting Association, as those areas were defined on January
 828 1, 2002;

829 (II) Policies that provide multiperil coverage, if offered
 830 by the corporation, and policies that provide coverage only for
 831 the peril of wind for risks located in areas eligible for
 832 coverage by the Florida Windstorm Underwriting Association, as
 833 those areas were defined on January 1, 2002;

834 (III) Commercial residential wind-only policies;

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

837 (V) Commercial residential multiperil policies on a
 838 building that was insured by the corporation on June 30, 2014 ~~It~~
 839 ~~is the goal of the Legislature that there be an overall average~~
 840 ~~savings of 10 percent or more for a policyholder who currently~~
 841 ~~has a wind-only policy with the corporation, and an ex-wind~~
 842 ~~policy with a voluntary insurer or the corporation, and who~~
 843 ~~obtains a multiperil policy from the corporation. It is the~~
 844 ~~intent of the Legislature that the offer of multiperil coverage~~
 845 ~~in the coastal account be made and implemented in a manner that~~
 846 ~~does not adversely affect the tax-exempt status of the~~
 847 ~~corporation or creditworthiness of or security for currently~~
 848 ~~outstanding financing obligations or credit facilities of the~~
 849 ~~coastal account, the personal lines account, or the commercial~~
 850 ~~lines account. The coastal account must also include quota share~~

851 ~~primary insurance under subparagraph (c)2.~~

852

853 The area eligible for coverage with the corporation under this
854 sub-subparagraph ~~under the coastal account also~~ includes the
855 area within Port Canaveral, which is bordered on the south by
856 the City of Cape Canaveral, bordered on the west by the Banana
857 River, and bordered on the north by Federal Government property.

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

859 a. Upon a determination by the board of governors that the
860 Citizens account has a projected deficit, the board shall levy a
861 Citizens policyholder surcharge against all policyholders of the
862 corporation.

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

866 (II) The surcharge is payable upon cancellation or
867 termination of the policy, upon renewal of the policy, or upon
868 issuance of a new policy by the corporation within the first 12
869 months after the date of the levy or the period of time
870 necessary to fully collect the surcharge amount.

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

874 ~~b. The three separate accounts must be maintained as long~~
875 ~~as financing obligations entered into by the Florida Windstorm~~

876 ~~Underwriting Association or Residential Property and Casualty~~
877 ~~Joint Underwriting Association are outstanding, in accordance~~
878 ~~with the terms of the corresponding financing documents. If no~~
879 ~~such financing obligations remain outstanding or if the~~
880 ~~financing documents allow for combining of accounts, the~~
881 ~~corporation may consolidate the three separate accounts into a~~
882 ~~new account, to be known as the Citizens account, for all~~
883 ~~revenues, assets, liabilities, losses, and expenses of the~~
884 ~~corporation. The Citizens account, if established by the~~
885 ~~corporation, is authorized to provide coverage to the same~~
886 ~~extent as provided under each of the three separate accounts.~~
887 ~~The authority to provide coverage under the Citizens account is~~
888 ~~set forth in subparagraph 4. Consistent with this subparagraph~~
889 ~~and prudent investment policies that minimize the cost of~~
890 ~~carrying debt, the board shall exercise its best efforts to~~
891 ~~retire existing debt or obtain the approval of necessary parties~~
892 ~~to amend the terms of existing debt, so as to structure the most~~
893 ~~efficient plan for consolidating the three separate accounts~~
894 ~~into a single account. Once the accounts are combined into one~~
895 ~~account, this subparagraph and subparagraph 3. shall be replaced~~
896 ~~in their entirety by subparagraphs 4. and 5.~~

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

901 ~~recourse to, the account referred to in sub-sub-subparagraph~~
 902 ~~a.(III). Creditors of the Florida Windstorm Underwriting~~
 903 ~~Association have a claim against, and recourse to, the account~~
 904 ~~referred to in sub-sub-subparagraph a.(III) and no claim~~
 905 ~~against, or recourse to, the accounts referred to in sub-sub-~~
 906 ~~subparagraphs a.(I) and (II).~~

907 ~~d. Revenues, assets, liabilities, losses, and expenses not~~
 908 ~~attributable to particular accounts shall be prorated among the~~
 909 ~~accounts.~~

910 ~~e. The Legislature finds that the revenues of the~~
 911 ~~corporation are revenues that are necessary to meet the~~
 912 ~~requirements set forth in documents authorizing the issuance of~~
 913 ~~bonds under this subsection.~~

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

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

917 ~~a. After accounting for the Citizens policyholder~~
 918 ~~surcharge imposed under sub-subparagraph j., if the remaining~~
 919 ~~projected deficit incurred in the coastal account in a~~
 920 ~~particular calendar year:~~

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

926 ~~(II) Exceeds 2 percent of the aggregate statewide direct~~
927 ~~written premium for the subject lines of business for the prior~~
928 ~~calendar year, the corporation shall levy regular assessments on~~
929 ~~assessable insurers under paragraph (q) and on assessable~~
930 ~~insureds in an amount equal to the greater of 2 percent of the~~
931 ~~projected deficit or 2 percent of the aggregate statewide direct~~
932 ~~written premium for the subject lines of business for the prior~~
933 ~~calendar year. Any remaining projected deficit shall be~~
934 ~~recovered through emergency assessments under sub-subparagraph~~
935 ~~e.~~

936 ~~b. Each assessable insurer's share of the amount being~~
937 ~~assessed under sub-subparagraph a. must be in the proportion~~
938 ~~that the assessable insurer's direct written premium for the~~
939 ~~subject lines of business for the year preceding the assessment~~
940 ~~bears to the aggregate statewide direct written premium for the~~
941 ~~subject lines of business for that year. The assessment~~
942 ~~percentage applicable to each assessable insured is the ratio of~~
943 ~~the amount being assessed under sub-subparagraph a. to the~~
944 ~~aggregate statewide direct written premium for the subject lines~~
945 ~~of business for the prior year. Assessments levied by the~~
946 ~~corporation on assessable insurers under sub-subparagraph a.~~
947 ~~must be paid as required by the corporation's plan of operation~~
948 ~~and paragraph (q). Assessments levied by the corporation on~~
949 ~~assessable insureds under sub-subparagraph a. shall be collected~~
950 ~~by the surplus lines agent at the time the surplus lines agent~~

951 ~~collects the surplus lines tax required by s. 626.932, and paid~~
952 ~~to the Florida Surplus Lines Service Office at the time the~~
953 ~~surplus lines agent pays the surplus lines tax to that office.~~
954 ~~Upon receipt of regular assessments from surplus lines agents,~~
955 ~~the Florida Surplus Lines Service Office shall transfer the~~
956 ~~assessments directly to the corporation as determined by the~~
957 ~~corporation.~~

958 ~~e. The corporation may not levy regular assessments under~~
959 ~~paragraph (q) pursuant to sub-subparagraph a. or sub-~~
960 ~~subparagraph b. if the three separate accounts in sub-sub-~~
961 ~~subparagraphs 2.a.(I)-(III) have been consolidated into the~~
962 ~~Citizens account pursuant to sub-subparagraph 2.b. However, the~~
963 ~~outstanding balance of any regular assessment levied by the~~
964 ~~corporation before establishment of the Citizens account remains~~
965 ~~payable to the corporation.~~

966 ~~b.d.~~ After accounting for the Citizens policyholder
967 surcharge imposed under sub-subparagraph a. j., the remaining
968 projected deficits in the Citizens ~~personal lines~~ account ~~and in~~
969 ~~the commercial lines account~~ in a particular calendar year shall
970 be recovered through emergency assessments under sub-
971 subparagraph c. e.

972 ~~c.e.~~ Upon a determination by the board of governors that a
973 projected deficit in the Citizens ~~an~~ account exceeds the amount
974 that is expected to be recovered through surcharges ~~regular~~
975 ~~assessments~~ under sub-subparagraph a., ~~plus the amount that is~~

976 ~~expected to be recovered through surcharges under sub-~~
977 ~~subparagraph j.,~~ the board, after verification by the office,
978 shall levy emergency assessments for as many years as necessary
979 to cover the deficits, to be collected by assessable insurers
980 and the corporation and collected from assessable insureds upon
981 issuance or renewal of policies for subject lines of business,
982 excluding National Flood Insurance Program policies. The amount
983 collected in a particular year must be a uniform percentage of
984 that year's direct written premium for subject lines of business
985 and the Citizens account ~~all accounts of the corporation,~~
986 ~~excluding~~ National Flood Insurance Program policy premiums, as
987 annually determined by the board and verified by the office. The
988 office shall verify the arithmetic calculations involved in the
989 board's determination within 30 days after receipt of the
990 information on which the determination was based. The office
991 shall notify assessable insurers and the Florida Surplus Lines
992 Service Office of the date on which assessable insurers shall
993 begin to collect and assessable insureds shall begin to pay such
994 assessment. The date must be at least 90 days after the date the
995 corporation levies emergency assessments pursuant to this sub-
996 subparagraph. Notwithstanding any other ~~provision of~~ law, the
997 corporation and each assessable insurer that writes subject
998 lines of business shall collect emergency assessments from its
999 policyholders without such obligation being affected by any
1000 credit, limitation, exemption, or deferment. Emergency

1001 assessments levied by the corporation on assessable insureds
 1002 shall be collected by the surplus lines agent at the time the
 1003 surplus lines agent collects the surplus lines tax required by
 1004 s. 626.932 and paid to the Florida Surplus Lines Service Office
 1005 at the time the surplus lines agent pays the surplus lines tax
 1006 to that office. The emergency assessments collected shall be
 1007 transferred directly to the corporation on a periodic basis as
 1008 determined by the corporation and held by the corporation solely
 1009 in the Citizens ~~applicable~~ account. The aggregate amount of
 1010 emergency assessments levied for the Citizens ~~an~~ account in any
 1011 calendar year may be less than but may not exceed the greater of
 1012 10 percent of the amount needed to cover the deficit, plus
 1013 interest, fees, commissions, required reserves, and other costs
 1014 associated with financing the original deficit, or 10 percent of
 1015 the aggregate statewide direct written premium for subject lines
 1016 of business and the Citizens account ~~all accounts~~ of the
 1017 corporation for the prior year, plus interest, fees,
 1018 commissions, required reserves, and other costs associated with
 1019 financing the deficit.

1020 ~~d.f.~~ The corporation may pledge the proceeds of
 1021 assessments, projected recoveries from the Florida Hurricane
 1022 Catastrophe Fund, other insurance and reinsurance recoverables,
 1023 policyholder surcharges and other surcharges, and other funds
 1024 available to the corporation as the source of revenue for and to
 1025 secure bonds issued under paragraph (q), bonds or other

1026 indebtedness issued under subparagraph (c)3., or lines of credit
 1027 or other financing mechanisms issued or created under this
 1028 subsection, or to retire any other debt incurred as a result of
 1029 deficits or events giving rise to deficits, or in any other way
 1030 that the board determines will efficiently recover such
 1031 deficits. The purpose of the lines of credit or other financing
 1032 mechanisms is to provide additional resources to assist the
 1033 corporation in covering claims and expenses attributable to a
 1034 catastrophe. As used in this subsection, the term "assessments"
 1035 includes emergency ~~regular~~ assessments under sub-subparagraph c.
 1036 ~~a. or subparagraph (q)1. and emergency assessments under sub-~~
 1037 ~~subparagraph e.~~ Emergency assessments collected under sub-
 1038 subparagraph c. ~~e.~~ are not part of an insurer's rates, are not
 1039 premium, and are not subject to premium tax, fees, or
 1040 commissions; however, failure to pay the emergency assessment
 1041 shall be treated as failure to pay premium. The emergency
 1042 assessments shall continue as long as any bonds issued or other
 1043 indebtedness incurred with respect to a deficit for which the
 1044 assessment was imposed remain outstanding, unless adequate
 1045 provision has been made for the payment of such bonds or other
 1046 indebtedness pursuant to the documents governing such bonds or
 1047 indebtedness.

1048 ~~e.g.~~ As used in this subsection and for purposes of any
 1049 deficit incurred on or after January 25, 2007, the term "subject
 1050 lines of business" means insurance written by assessable

1051 insurers or procured by assessable insureds for all property and
1052 casualty lines of business in this state, but not including
1053 workers' compensation or medical malpractice. As used in this
1054 sub-subparagraph, the term "property and casualty lines of
1055 business" includes all lines of business identified on Form 2,
1056 Exhibit of Premiums and Losses, in the annual statement required
1057 of authorized insurers under s. 624.424 and any rule adopted
1058 under this section, except for those lines identified as
1059 accident and health insurance and except for policies written
1060 under the National Flood Insurance Program or the Federal Crop
1061 Insurance Program. For purposes of this sub-subparagraph, the
1062 term "workers' compensation" includes both workers' compensation
1063 insurance and excess workers' compensation insurance.

1064 ~~f.h.~~ The Florida Surplus Lines Service Office shall
1065 annually determine ~~annually~~ the aggregate statewide written
1066 premium in subject lines of business procured by assessable
1067 insureds and report that information to the corporation in a
1068 form and at a time the corporation specifies to ensure that the
1069 corporation can meet the requirements of this subsection and the
1070 corporation's financing obligations.

1071 ~~g.i.~~ The Florida Surplus Lines Service Office shall verify
1072 the proper application by surplus lines agents of assessment
1073 percentages for ~~regular assessments and~~ emergency assessments
1074 levied under this subparagraph on assessable insureds and assist
1075 the corporation in ensuring the accurate, timely collection and

1076 payment of assessments by surplus lines agents as required by
1077 the corporation.

1078 ~~j. Upon determination by the board of governors that an~~
1079 ~~account has a projected deficit, the board shall levy a Citizens~~
1080 ~~policyholder surcharge against all policyholders of the~~
1081 ~~corporation.~~

1082 ~~(I) The surcharge shall be levied as a uniform percentage~~
1083 ~~of the premium for the policy of up to 15 percent of such~~
1084 ~~premium, which funds shall be used to offset the deficit.~~

1085 ~~(II) The surcharge is payable upon cancellation or~~
1086 ~~termination of the policy, upon renewal of the policy, or upon~~
1087 ~~issuance of a new policy by the corporation within the first 12~~
1088 ~~months after the date of the levy or the period of time~~
1089 ~~necessary to fully collect the surcharge amount.~~

1090 ~~(III) The corporation may not levy any regular assessments~~
1091 ~~under paragraph (q) pursuant to sub-subparagraph a. or sub-~~
1092 ~~subparagraph b. with respect to a particular year's deficit~~
1093 ~~until the corporation has first levied the full amount of the~~
1094 ~~surcharge authorized by this sub-subparagraph.~~

1095 ~~(IV) The surcharge is not considered premium and is not~~
1096 ~~subject to commissions, fees, or premium taxes. However, failure~~
1097 ~~to pay the surcharge shall be treated as failure to pay premium.~~

1098 h.k. If the amount of any assessments or surcharges
1099 collected from corporation policyholders, assessable insurers or
1100 their policyholders, or assessable insureds exceeds the amount

1101 of the deficits, such excess amounts shall be remitted to and
1102 retained by the corporation in a reserve to be used by the
1103 corporation, as determined by the board of governors and
1104 approved by the office, to pay claims or reduce any past,
1105 present, or future plan-year deficits or to reduce outstanding
1106 debt.

1107 ~~4. The Citizens account, if established by the corporation~~
1108 ~~pursuant to sub-subparagraph 2.b., is authorized to provide:~~

1109 ~~a. Personal residential policies that provide~~
1110 ~~comprehensive, multiperil coverage on risks that are not located~~
1111 ~~in areas eligible for coverage by the Florida Windstorm~~
1112 ~~Underwriting Association, as those areas were defined on January~~
1113 ~~1, 2002, and for policies that do not provide coverage for the~~
1114 ~~peril of wind on risks that are located in such areas;~~

1115 ~~b. Commercial residential and commercial nonresidential~~
1116 ~~policies that provide coverage for basic property perils on~~
1117 ~~risks that are not located in areas eligible for coverage by the~~
1118 ~~Florida Windstorm Underwriting Association, as those areas were~~
1119 ~~defined on January 1, 2002, and for policies that do not provide~~
1120 ~~coverage for the peril of wind on risks that are located in such~~
1121 ~~areas; and~~

1122 ~~c. Personal residential policies and commercial~~
1123 ~~residential and commercial nonresidential property policies that~~
1124 ~~provide coverage for the peril of wind on risks that are located~~
1125 ~~in areas eligible for coverage by the Florida Windstorm~~

1126 ~~Underwriting Association, as those areas were defined on January~~
1127 ~~1, 2002. The corporation may offer policies that provide~~
1128 ~~multiperil coverage and shall offer policies that provide~~
1129 ~~coverage only for the peril of wind for risks located in areas~~
1130 ~~eligible for coverage by the Florida Windstorm Underwriting~~
1131 ~~Association, as those areas were defined on January 1, 2002. The~~
1132 ~~corporation may not offer new commercial residential policies~~
1133 ~~providing multiperil coverage, but shall continue to offer~~
1134 ~~commercial residential wind-only policies, and may offer~~
1135 ~~commercial residential policies excluding wind. However, the~~
1136 ~~corporation may continue to renew a commercial residential~~
1137 ~~multiperil policy on a building that was insured by the~~
1138 ~~corporation on June 30, 2014, under a multiperil policy. In~~
1139 ~~issuing multiperil coverage under this sub-subparagraph, the~~
1140 ~~corporation may use its approved policy forms and rates for~~
1141 ~~risks located in areas not eligible for coverage by the Florida~~
1142 ~~Windstorm Underwriting Association as those areas were defined~~
1143 ~~on January 1, 2002, and for policies that do not provide~~
1144 ~~coverage for the peril of wind on risks that are located in such~~
1145 ~~areas. An applicant or insured who is eligible to purchase a~~
1146 ~~multiperil policy from the corporation may purchase a multiperil~~
1147 ~~policy from an authorized insurer without prejudice to the~~
1148 ~~applicant's or insured's eligibility to prospectively purchase a~~
1149 ~~policy that provides coverage only for the peril of wind from~~
1150 ~~the corporation. An applicant or insured who is eligible for a~~

1151 ~~corporation policy that provides coverage only for the peril of~~
1152 ~~wind may elect to purchase or retain such policy and also~~
1153 ~~purchase or retain coverage excluding wind from an authorized~~
1154 ~~insurer without prejudice to the applicant's or insured's~~
1155 ~~eligibility to prospectively purchase a policy that provides~~
1156 ~~multi-peril coverage from the corporation. The following~~
1157 ~~policies, which provide coverage only for the peril of wind,~~
1158 ~~must also include quota share primary insurance under~~
1159 ~~subparagraph (c)2.: Personal residential policies and commercial~~
1160 ~~residential and commercial nonresidential property policies that~~
1161 ~~provide coverage for the peril of wind on risks that are located~~
1162 ~~in areas eligible for coverage by the Florida Windstorm~~
1163 ~~Underwriting Association, as those areas were defined on January~~
1164 ~~1, 2002; policies that provide multi-peril coverage, if offered~~
1165 ~~by the corporation, and policies that provide coverage only for~~
1166 ~~the peril of wind for risks located in areas eligible for~~
1167 ~~coverage by the Florida Windstorm Underwriting Association, as~~
1168 ~~those areas were defined on January 1, 2002; commercial~~
1169 ~~residential wind-only policies; commercial residential policies~~
1170 ~~excluding wind, if offered by the corporation; and commercial~~
1171 ~~residential multi-peril policies on a building that was insured~~
1172 ~~by the corporation on June 30, 2014. The area eligible for~~
1173 ~~coverage with the corporation under this sub-subparagraph~~
1174 ~~includes the area within Port Canaveral, which is bordered on~~
1175 ~~the south by the City of Cape Canaveral, bordered on the west by~~

1176 | ~~the Banana River, and bordered on the north by Federal~~
 1177 | ~~Government property.~~

1178 | ~~5. With respect to a deficit in the Citizens account:~~

1179 | ~~a. Upon a determination by the board of governors that the~~
 1180 | ~~Citizens account has a projected deficit, the board shall levy a~~
 1181 | ~~Citizens policyholder surcharge against all policyholders of the~~
 1182 | ~~corporation.~~

1183 | ~~(I) The surcharge shall be levied as a uniform percentage~~
 1184 | ~~of the premium for the policy of up to 15 percent of such~~
 1185 | ~~premium, which funds shall be used to offset the deficit.~~

1186 | ~~(II) The surcharge is payable upon cancellation or~~
 1187 | ~~termination of the policy, upon renewal of the policy, or upon~~
 1188 | ~~issuance of a new policy by the corporation within the first 12~~
 1189 | ~~months after the date of the levy or the period of time~~
 1190 | ~~necessary to fully collect the surcharge amount.~~

1191 | ~~(III) The surcharge is not considered premium and is not~~
 1192 | ~~subject to commissions, fees, or premium taxes. However, failure~~
 1193 | ~~to pay the surcharge shall be treated as failure to pay premium.~~

1194 | ~~b. After accounting for the Citizens policyholder~~
 1195 | ~~surcharge imposed under sub-subparagraph a., the remaining~~
 1196 | ~~projected deficit incurred in the Citizens account in a~~
 1197 | ~~particular calendar year shall be recovered through emergency~~
 1198 | ~~assessments under sub-subparagraph c.~~

1199 | ~~e. Upon a determination by the board of governors that a~~
 1200 | ~~projected deficit in the Citizens account exceeds the amount~~

1201 ~~that is expected to be recovered through surcharges under sub-~~
 1202 ~~subparagraph a., the board, after verification by the office,~~
 1203 ~~shall levy emergency assessments for as many years as necessary~~
 1204 ~~to cover the deficits, to be collected by assessable insurers~~
 1205 ~~and the corporation and collected from assessable insureds upon~~
 1206 ~~issuance or renewal of policies for subject lines of business,~~
 1207 ~~excluding National Flood Insurance Program policies. The amount~~
 1208 ~~collected in a particular year must be a uniform percentage of~~
 1209 ~~that year's direct written premium for subject lines of business~~
 1210 ~~and the Citizens account, National Flood Insurance Program~~
 1211 ~~policy premiums, as annually determined by the board and~~
 1212 ~~verified by the office. The office shall verify the arithmetic~~
 1213 ~~calculations involved in the board's determination within 30~~
 1214 ~~days after receipt of the information on which the determination~~
 1215 ~~was based. The office shall notify assessable insurers and the~~
 1216 ~~Florida Surplus Lines Service Office of the date on which~~
 1217 ~~assessable insurers shall begin to collect and assessable~~
 1218 ~~insureds shall begin to pay such assessment. The date must be at~~
 1219 ~~least 90 days after the date the corporation levies emergency~~
 1220 ~~assessments pursuant to this sub-subparagraph. Notwithstanding~~
 1221 ~~any other law, the corporation and each assessable insurer that~~
 1222 ~~writes subject lines of business shall collect emergency~~
 1223 ~~assessments from its policyholders without such obligation being~~
 1224 ~~affected by any credit, limitation, exemption, or deferment.~~
 1225 ~~Emergency assessments levied by the corporation on assessable~~

1226 ~~insureds shall be collected by the surplus lines agent at the~~
1227 ~~time the surplus lines agent collects the surplus lines tax~~
1228 ~~required by s. 626.932 and paid to the Florida Surplus Lines~~
1229 ~~Service Office at the time the surplus lines agent pays the~~
1230 ~~surplus lines tax to that office. The emergency assessments~~
1231 ~~collected shall be transferred directly to the corporation on a~~
1232 ~~periodic basis as determined by the corporation and held by the~~
1233 ~~corporation solely in the Citizens account. The aggregate amount~~
1234 ~~of emergency assessments levied for the Citizens account in any~~
1235 ~~calendar year may be less than, but may not exceed the greater~~
1236 ~~of, 10 percent of the amount needed to cover the deficit, plus~~
1237 ~~interest, fees, commissions, required reserves, and other costs~~
1238 ~~associated with financing the original deficit or 10 percent of~~
1239 ~~the aggregate statewide direct written premium for subject lines~~
1240 ~~of business and the Citizens accounts for the prior year, plus~~
1241 ~~interest, fees, commissions, required reserves, and other costs~~
1242 ~~associated with financing the deficit.~~

1243 ~~d. The corporation may pledge the proceeds of assessments,~~
1244 ~~projected recoveries from the Florida Hurricane Catastrophe~~
1245 ~~Fund, other insurance and reinsurance recoverables, policyholder~~
1246 ~~surcharges and other surcharges, and other funds available to~~
1247 ~~the corporation as the source of revenue for and to secure bonds~~
1248 ~~issued under paragraph (g), bonds or other indebtedness issued~~
1249 ~~under subparagraph (c)3., or lines of credit or other financing~~
1250 ~~mechanisms issued or created under this subsection; or to retire~~

1251 ~~any other debt incurred as a result of deficits or events giving~~
1252 ~~rise to deficits, or in any other way that the board determines~~
1253 ~~will efficiently recover such deficits. The purpose of the lines~~
1254 ~~of credit or other financing mechanisms is to provide additional~~
1255 ~~resources to assist the corporation in covering claims and~~
1256 ~~expenses attributable to a catastrophe. As used in this~~
1257 ~~subsection, the term "assessments" includes emergency~~
1258 ~~assessments under sub-subparagraph c. Emergency assessments~~
1259 ~~collected under sub-subparagraph c. are not part of an insurer's~~
1260 ~~rates, are not premium, and are not subject to premium tax,~~
1261 ~~fees, or commissions; however, failure to pay the emergency~~
1262 ~~assessment shall be treated as failure to pay premium. The~~
1263 ~~emergency assessments shall continue as long as any bonds issued~~
1264 ~~or other indebtedness incurred with respect to a deficit for~~
1265 ~~which the assessment was imposed remain outstanding, unless~~
1266 ~~adequate provision has been made for the payment of such bonds~~
1267 ~~or other indebtedness pursuant to the documents governing such~~
1268 ~~bonds or indebtedness.~~

1269 ~~e. As used in this subsection and for purposes of any~~
1270 ~~deficit incurred on or after January 25, 2007, the term "subject~~
1271 ~~lines of business" means insurance written by assessable~~
1272 ~~insurers or procured by assessable insureds for all property and~~
1273 ~~casualty lines of business in this state, but not including~~
1274 ~~workers' compensation or medical malpractice. As used in this~~
1275 ~~sub-subparagraph, the term "property and casualty lines of~~

1276 ~~business" includes all lines of business identified on Form 2,~~
1277 ~~Exhibit of Premiums and Losses, in the annual statement required~~
1278 ~~of authorized insurers under s. 624.424 and any rule adopted~~
1279 ~~under this section, except for those lines identified as~~
1280 ~~accident and health insurance and except for policies written~~
1281 ~~under the National Flood Insurance Program or the Federal Crop~~
1282 ~~Insurance Program. For purposes of this sub-subparagraph, the~~
1283 ~~term "workers' compensation" includes both workers' compensation~~
1284 ~~insurance and excess workers' compensation insurance.~~

1285 ~~f. The Florida Surplus Lines Service Office shall annually~~
1286 ~~determine the aggregate statewide written premium in subject~~
1287 ~~lines of business procured by assessable insureds and report~~
1288 ~~that information to the corporation in a form and at a time the~~
1289 ~~corporation specifies to ensure that the corporation can meet~~
1290 ~~the requirements of this subsection and the corporation's~~
1291 ~~financing obligations.~~

1292 ~~g. The Florida Surplus Lines Service Office shall verify~~
1293 ~~the proper application by surplus lines agents of assessment~~
1294 ~~percentages for emergency assessments levied under this~~
1295 ~~subparagraph on assessable insureds and assist the corporation~~
1296 ~~in ensuring the accurate, timely collection and payment of~~
1297 ~~assessments by surplus lines agents as required by the~~
1298 ~~corporation.~~

1299 ~~h. If the amount of any assessments or surcharges~~
1300 ~~collected from corporation policyholders, assessable insurers or~~

1301 ~~their policyholders, or assessable insureds exceeds the amount~~
1302 ~~of the deficits, such excess amounts shall be remitted to and~~
1303 ~~retained by the corporation in a reserve to be used by the~~
1304 ~~corporation, as determined by the board of governors and~~
1305 ~~approved by the office, to pay claims or reduce any past,~~
1306 ~~present, or future plan-year deficits or to reduce outstanding~~
1307 ~~debt.~~

1308 (c) The corporation's plan of operation:

1309 1. Must provide for adoption of residential property and
1310 casualty insurance policy forms and commercial residential and
1311 nonresidential property insurance forms, which must be approved
1312 by the office before use. The corporation shall adopt the
1313 following policy forms:

1314 a. Standard personal lines policy forms that are
1315 comprehensive multiperil policies providing full coverage of a
1316 residential property equivalent to the coverage provided in the
1317 private insurance market under an HO-3, HO-4, or HO-6 policy.

1318 b. Basic personal lines policy forms that are policies
1319 similar to an HO-8 policy or a dwelling fire policy that provide
1320 coverage meeting the requirements of the secondary mortgage
1321 market, but which is more limited than the coverage under a
1322 standard policy.

1323 c. Commercial lines residential and nonresidential policy
1324 forms that are generally similar to the basic perils of full
1325 coverage obtainable for commercial residential structures and

1326 commercial nonresidential structures in the admitted voluntary
 1327 market.

1328 d. Personal lines and commercial lines residential
 1329 property insurance forms that cover the peril of wind only. The
 1330 forms are applicable only to residential properties located in
 1331 areas eligible for coverage by the Florida Windstorm
 1332 Underwriting Association, as those areas were defined on January
 1333 1, 2002.

1334 e. Commercial lines nonresidential property insurance
 1335 forms that cover the peril of wind only. The forms are
 1336 applicable only to nonresidential properties located in areas
 1337 eligible for coverage by the Florida Windstorm Underwriting
 1338 Association, as those areas were defined on January 1, 2002.

1339 f. The corporation may adopt variations of the policy
 1340 forms listed in sub-subparagraphs a.-e. which contain more
 1341 restrictive coverage.

1342 g. The corporation shall offer a basic personal lines
 1343 policy similar to an HO-8 policy with dwelling repair based on
 1344 common construction materials and methods.

1345 2. Must provide that the corporation adopt a program in
 1346 which the corporation and authorized insurers enter into quota
 1347 share primary insurance agreements for hurricane coverage, as
 1348 defined in s. 627.4025(2)(a), for eligible risks, and adopt
 1349 property insurance forms for eligible risks which cover the
 1350 peril of wind only.

1351 a. As used in this subsection, the term:

1352 (I) "Approved rate" means:

1353 (A) With respect to an authorized insurer that holds a
 1354 certificate of authority, such insurer's filed and approved
 1355 rate.

1356 (B) With respect to an authorized insurer that is an
 1357 eligible surplus lines insurer, the rate approved by the office
 1358 as part of such insurer's take-out plan.

1359 (II) "Authorized insurer" means:

1360 (A) An insurer holding a certificate of authority; or

1361 (B) An eligible surplus lines insurer that is rated "A-"
 1362 or higher by A.M. Best Company and whose Florida personal lines
 1363 residential risk or commercial lines residential risk program is
 1364 managed by a Florida resident surplus lines broker.

1365 (III) "Eligible risks" means personal lines residential
 1366 and commercial lines residential risks that meet the
 1367 underwriting criteria of the corporation and are located in
 1368 areas that were eligible for coverage by the Florida Windstorm
 1369 Underwriting Association on January 1, 2002.

1370 (IV) "Primary residence" means the dwelling that is the
 1371 policyholder's primary home or is a rental property that is the
 1372 primary home of the tenant, and which the policyholder or tenant
 1373 occupies for more than 9 months of each year.

1374 (V)-(I) "Quota share primary insurance" means an
 1375 arrangement in which the primary hurricane coverage of an

1376 eligible risk is provided in specified percentages by the
 1377 corporation and an authorized insurer. The corporation and
 1378 authorized insurer are each solely responsible for a specified
 1379 percentage of hurricane coverage of an eligible risk as set
 1380 forth in a quota share primary insurance agreement between the
 1381 corporation and an authorized insurer and the insurance
 1382 contract. The responsibility of the corporation or authorized
 1383 insurer to pay its specified percentage of hurricane losses of
 1384 an eligible risk, as set forth in the agreement, may not be
 1385 altered by the inability of the other party to pay its specified
 1386 percentage of losses. Eligible risks that are provided hurricane
 1387 coverage through a quota share primary insurance arrangement
 1388 must be provided policy forms that set forth the obligations of
 1389 the corporation and authorized insurer under the arrangement,
 1390 clearly specify the percentages of quota share primary insurance
 1391 provided by the corporation and authorized insurer, and
 1392 conspicuously and clearly state that the authorized insurer and
 1393 the corporation may not be held responsible beyond their
 1394 specified percentage of coverage of hurricane losses.

1395 ~~(II) "Eligible risks" means personal lines residential and~~
 1396 ~~commercial lines residential risks that meet the underwriting~~
 1397 ~~criteria of the corporation and are located in areas that were~~
 1398 ~~eligible for coverage by the Florida Windstorm Underwriting~~
 1399 ~~Association on January 1, 2002.~~

1400 b. The corporation may enter into quota share primary

1401 insurance agreements with authorized insurers at corporation
1402 coverage levels of 90 percent and 50 percent.

1403 c. If the corporation determines that additional coverage
1404 levels are necessary to maximize participation in quota share
1405 primary insurance agreements by authorized insurers, the
1406 corporation may establish additional coverage levels. However,
1407 the corporation's quota share primary insurance coverage level
1408 may not exceed 90 percent.

1409 d. Any quota share primary insurance agreement entered
1410 into between an authorized insurer and the corporation must
1411 provide for a uniform specified percentage of coverage of
1412 hurricane losses, by county or territory as set forth by the
1413 corporation board, for all eligible risks of the authorized
1414 insurer covered under the agreement.

1415 e. Any quota share primary insurance agreement entered
1416 into between an authorized insurer and the corporation is
1417 subject to review and approval by the office. However, such
1418 agreement shall be authorized only as to insurance contracts
1419 entered into between an authorized insurer and an insured who is
1420 already insured by the corporation for wind coverage.

1421 f. For all eligible risks covered under quota share
1422 primary insurance agreements, the exposure and coverage levels
1423 for both the corporation and authorized insurers shall be
1424 reported by the corporation to the Florida Hurricane Catastrophe
1425 Fund. For all policies of eligible risks covered under such

1426 | agreements, the corporation and the authorized insurer must
 1427 | maintain complete and accurate records for the purpose of
 1428 | exposure and loss reimbursement audits as required by fund
 1429 | rules. The corporation and the authorized insurer shall each
 1430 | maintain duplicate copies of policy declaration pages and
 1431 | supporting claims documents.

1432 | g. The corporation board shall establish in its plan of
 1433 | operation standards for quota share agreements which ensure that
 1434 | there is no discriminatory application among insurers as to the
 1435 | terms of the agreements, pricing of the agreements, incentive
 1436 | provisions if any, and consideration paid for servicing policies
 1437 | or adjusting claims.

1438 | h. The quota share primary insurance agreement between the
 1439 | corporation and an authorized insurer must set forth the
 1440 | specific terms under which coverage is provided, including, but
 1441 | not limited to, the sale and servicing of policies issued under
 1442 | the agreement by the insurance agent of the authorized insurer
 1443 | producing the business, the reporting of information concerning
 1444 | eligible risks, the payment of premium to the corporation, and
 1445 | arrangements for the adjustment and payment of hurricane claims
 1446 | incurred on eligible risks by the claims adjuster and personnel
 1447 | of the authorized insurer. Entering into a quota sharing
 1448 | insurance agreement between the corporation and an authorized
 1449 | insurer is voluntary and at the discretion of the authorized
 1450 | insurer.

1451 3. May provide that the corporation may employ or
1452 otherwise contract with individuals or other entities to provide
1453 administrative or professional services that may be appropriate
1454 to effectuate the plan. The corporation may borrow funds by
1455 issuing bonds or by incurring other indebtedness, and shall have
1456 other powers reasonably necessary to effectuate the requirements
1457 of this subsection, including, without limitation, the power to
1458 issue bonds and incur other indebtedness in order to refinance
1459 outstanding bonds or other indebtedness. The corporation may
1460 seek judicial validation of its bonds or other indebtedness
1461 under chapter 75. The corporation may issue bonds or incur other
1462 indebtedness, or have bonds issued on its behalf by a unit of
1463 local government pursuant to subparagraph (q)2. in the absence
1464 of a hurricane or other weather-related event, upon a
1465 determination by the corporation, subject to approval by the
1466 office, that such action would enable it to efficiently meet the
1467 financial obligations of the corporation and that such
1468 financings are reasonably necessary to effectuate the
1469 requirements of this subsection. The corporation may take all
1470 actions needed to facilitate tax-free status for such bonds or
1471 indebtedness, including formation of trusts or other affiliated
1472 entities. The corporation may pledge assessments, projected
1473 recoveries from the Florida Hurricane Catastrophe Fund, other
1474 reinsurance recoverables, policyholder surcharges and other
1475 surcharges, and other funds available to the corporation as

1476 security for bonds or other indebtedness. In recognition of s.
 1477 10, Art. I of the State Constitution, prohibiting the impairment
 1478 of obligations of contracts, it is the intent of the Legislature
 1479 that no action be taken whose purpose is to impair any bond
 1480 indenture or financing agreement or any revenue source committed
 1481 by contract to such bond or other indebtedness.

1482 4. Must require that the corporation operate subject to
 1483 the supervision and approval of a board of governors consisting
 1484 of nine individuals who are residents of this state and who are
 1485 from different geographical areas of the state, one of whom is
 1486 appointed by the Governor and serves solely to advocate on
 1487 behalf of the consumer. The appointment of a consumer
 1488 representative by the Governor is deemed to be within the scope
 1489 of the exemption provided in s. 112.313(7) (b) and is in addition
 1490 to the appointments authorized under sub-subparagraph a.

1491 a. The Governor, the Chief Financial Officer, the
 1492 President of the Senate, and the Speaker of the House of
 1493 Representatives shall each appoint two members of the board. At
 1494 least one of the two members appointed by each appointing
 1495 officer must have demonstrated expertise in insurance and be
 1496 deemed to be within the scope of the exemption provided in s.
 1497 112.313(7) (b). The Chief Financial Officer shall designate one
 1498 of the appointees as chair. All board members serve at the
 1499 pleasure of the appointing officer. All members of the board are
 1500 subject to removal at will by the officers who appointed them.

1501 All board members, including the chair, must be appointed to
1502 serve for 3-year terms beginning annually on a date designated
1503 by the plan. However, for the first term beginning on or after
1504 July 1, 2009, each appointing officer shall appoint one member
1505 of the board for a 2-year term and one member for a 3-year term.
1506 A board vacancy shall be filled for the unexpired term by the
1507 appointing officer. The Chief Financial Officer shall appoint a
1508 technical advisory group to provide information and advice to
1509 the board in connection with the board's duties under this
1510 subsection. The executive director and senior managers of the
1511 corporation shall be engaged by the board and serve at the
1512 pleasure of the board. Any executive director appointed on or
1513 after July 1, 2006, is subject to confirmation by the Senate.
1514 The executive director is responsible for employing other staff
1515 as the corporation may require, subject to review and
1516 concurrence by the board.

1517 b. The board shall create a Market Accountability Advisory
1518 Committee to assist the corporation in developing awareness of
1519 its rates and its customer and agent service levels in
1520 relationship to the voluntary market insurers writing similar
1521 coverage.

1522 (I) The members of the advisory committee consist of the
1523 following 11 persons, one of whom must be elected chair by the
1524 members of the committee: four representatives, one appointed by
1525 the Florida Association of Insurance Agents, one by the Florida

1526 Association of Insurance and Financial Advisors, one by the
 1527 Professional Insurance Agents of Florida, and one by the Latin
 1528 American Association of Insurance Agencies; three
 1529 representatives appointed by the insurers with the three highest
 1530 voluntary market share of residential property insurance
 1531 business in the state; one representative from the Office of
 1532 Insurance Regulation; one consumer appointed by the board who is
 1533 insured by the corporation at the time of appointment to the
 1534 committee; one representative appointed by the Florida
 1535 Association of Realtors; and one representative appointed by the
 1536 Florida Bankers Association. All members shall be appointed to
 1537 3-year terms and may serve for consecutive terms.

1538 (II) The committee shall report to the corporation at each
 1539 board meeting on insurance market issues which may include rates
 1540 and rate competition with the voluntary market; service,
 1541 including policy issuance, claims processing, and general
 1542 responsiveness to policyholders, applicants, and agents; and
 1543 matters relating to depopulation.

1544 5. Must provide a procedure for determining the
 1545 eligibility of a risk for coverage, as follows:

1546 a. Subject to s. 627.3517, with respect to personal lines
 1547 residential risks, if the risk is offered coverage from an
 1548 authorized insurer at the insurer's approved rate under a
 1549 standard policy including wind coverage or, if consistent with
 1550 the insurer's underwriting rules as filed with the office, a

1551 basic policy including wind coverage, for a new application to
1552 the corporation for coverage, the risk is not eligible for any
1553 policy issued by the corporation unless the premium for coverage
1554 from the authorized insurer is more than 20 percent greater than
1555 the premium for comparable coverage from the corporation.
1556 Whenever an offer of coverage for a personal lines residential
1557 risk is received for a policyholder of the corporation at
1558 renewal from an authorized insurer, if the offer is equal to or
1559 less than the corporation's renewal premium for comparable
1560 coverage, the risk is not eligible for coverage with the
1561 corporation for policies that renew before April 1, 2023; for
1562 policies that renew on or after that date, the risk is not
1563 eligible for coverage with the corporation unless the premium
1564 for coverage from the authorized insurer is more than 20 percent
1565 greater than the corporation's renewal premium for comparable
1566 coverage. If the risk is not able to obtain such offer, the risk
1567 is eligible for a standard policy including wind coverage or a
1568 basic policy including wind coverage issued by the corporation;
1569 however, if the risk could not be insured under a standard
1570 policy including wind coverage regardless of market conditions,
1571 the risk is eligible for a basic policy including wind coverage
1572 unless rejected under subparagraph 8. The corporation shall
1573 determine the type of policy to be provided on the basis of
1574 objective standards specified in the underwriting manual and
1575 based on generally accepted underwriting practices. A

1576 policyholder removed from the corporation through an assumption
 1577 agreement does not remain eligible for coverage from the
 1578 corporation after the end of the policy term. However, any
 1579 policy removed from the corporation through an assumption
 1580 agreement remains on the corporation's policy forms through the
 1581 end of the policy term. However, notwithstanding any other
 1582 provision of law, this sub-subparagraph does not apply to a
 1583 policy that does not cover a primary residence.

1584 (I) If the risk accepts an offer of coverage through the
 1585 market assistance plan or through a mechanism established by the
 1586 corporation other than a plan established by s. 627.3518, before
 1587 a policy is issued to the risk by the corporation or during the
 1588 first 30 days of coverage by the corporation, and the producing
 1589 agent who submitted the application to the plan or to the
 1590 corporation is not currently appointed by the insurer, the
 1591 insurer shall:

1592 (A) Pay to the producing agent of record of the policy for
 1593 the first year, an amount that is the greater of the insurer's
 1594 usual and customary commission for the type of policy written or
 1595 a fee equal to the usual and customary commission of the
 1596 corporation; or

1597 (B) Offer to allow the producing agent of record of the
 1598 policy to continue servicing the policy for at least 1 year and
 1599 offer to pay the agent the greater of the insurer's or the
 1600 corporation's usual and customary commission for the type of

1601 policy written.

1602

1603 If the producing agent is unwilling or unable to accept
 1604 appointment for any reason, including the failure of such agent
 1605 to be licensed as a surplus lines agent, the new insurer shall
 1606 pay the agent in accordance with sub-sub-sub-subparagraph (A).

1607 (II) If the corporation enters into a contractual
 1608 agreement for a take-out plan, the producing agent of record of
 1609 the corporation policy is entitled to retain any unearned
 1610 commission on the policy, and the insurer shall:

1611 (A) Pay to the producing agent of record, for the first
 1612 year, an amount that is the greater of the insurer's usual and
 1613 customary commission for the type of policy written or a fee
 1614 equal to the usual and customary commission of the corporation;
 1615 or

1616 (B) Offer to allow the producing agent of record to
 1617 continue servicing the policy for at least 1 year and offer to
 1618 pay the agent the greater of the insurer's or the corporation's
 1619 usual and customary commission for the type of policy written.

1620

1621 If the producing agent is unwilling or unable to accept
 1622 appointment for any reason, including the failure of such agent
 1623 to be licensed as a surplus lines agent, the new insurer shall
 1624 pay the agent in accordance with sub-sub-sub-subparagraph (A).
 1625 This sub-sub-subparagraph does not apply to an authorized

1626 insurer that is an eligible surplus lines insurer.

1627 b. With respect to commercial lines residential risks, for
1628 a new application to the corporation for coverage, if the risk
1629 is offered coverage under a policy including wind coverage from
1630 an admitted ~~authorized~~ insurer at its approved rate, the risk is
1631 not eligible for a policy issued by the corporation unless the
1632 premium for coverage from the admitted ~~authorized~~ insurer is
1633 more than 20 percent greater than the premium for comparable
1634 coverage from the corporation. Whenever an offer of coverage for
1635 a commercial lines residential risk is received for a
1636 policyholder of the corporation at renewal from an admitted
1637 ~~authorized~~ insurer, the risk is not eligible for coverage with
1638 the corporation unless the premium for coverage from the
1639 admitted ~~authorized~~ insurer is more than 20 percent greater than
1640 the corporation's renewal premium for comparable coverage. If
1641 the risk is not able to obtain any such offer, the risk is
1642 eligible for a policy including wind coverage issued by the
1643 corporation. A policyholder removed from the corporation through
1644 an assumption agreement remains eligible for coverage from the
1645 corporation until the end of the policy term. However, any
1646 policy removed from the corporation through an assumption
1647 agreement remains on the corporation's policy forms through the
1648 end of the policy term. With respect to commercial lines
1649 residential risks for a new application to the corporation for
1650 coverage, if the risk is offered coverage from an eligible

1651 surplus lines insurer at the insurer's approved rate under a
1652 policy including wind coverage, the risk is not eligible for a
1653 policy issued by the corporation. If an offer of coverage for a
1654 commercial lines residential risk is received for a policyholder
1655 of the corporation by an eligible surplus lines insurer at
1656 renewal, the risk is not eligible for coverage with the
1657 corporation.

1658 (I) If the risk accepts an offer of coverage through the
1659 market assistance plan or through a mechanism established by the
1660 corporation other than a plan established by s. 627.3518, before
1661 a policy is issued to the risk by the corporation or during the
1662 first 30 days of coverage by the corporation, and the producing
1663 agent who submitted the application to the plan or the
1664 corporation is not currently appointed by the insurer, the
1665 insurer shall:

1666 (A) Pay to the producing agent of record of the policy,
1667 for the first year, an amount that is the greater of the
1668 insurer's usual and customary commission for the type of policy
1669 written or a fee equal to the usual and customary commission of
1670 the corporation; or

1671 (B) Offer to allow the producing agent of record of the
1672 policy to continue servicing the policy for at least 1 year and
1673 offer to pay the agent the greater of the insurer's or the
1674 corporation's usual and customary commission for the type of
1675 policy written.

1676
 1677 If the producing agent is unwilling or unable to accept
 1678 appointment for any reason, including the failure of such agent
 1679 to be licensed as a surplus lines agent, the new insurer shall
 1680 pay the agent in accordance with sub-sub-sub-subparagraph (A).
 1681 This sub-sub-subparagraph does not apply to an authorized
 1682 insurer that is an eligible surplus lines insurer.

1683 (II) If the corporation enters into a contractual
 1684 agreement for a take-out plan, the producing agent of record of
 1685 the corporation policy is entitled to retain any unearned
 1686 commission on the policy, and the insurer shall:

1687 (A) Pay to the producing agent of record, for the first
 1688 year, an amount that is the greater of the insurer's usual and
 1689 customary commission for the type of policy written or a fee
 1690 equal to the usual and customary commission of the corporation;
 1691 or

1692 (B) Offer to allow the producing agent of record to
 1693 continue servicing the policy for at least 1 year and offer to
 1694 pay the agent the greater of the insurer's or the corporation's
 1695 usual and customary commission for the type of policy written.

1696
 1697 If the producing agent is unwilling or unable to accept
 1698 appointment for any reason, including the failure of such agent
 1699 to be licensed as a surplus lines agent, the new insurer shall
 1700 pay the agent in accordance with sub-sub-sub-subparagraph (A).

1701 This sub-sub-subparagraph does not apply to an authorized
1702 insurer that is an eligible surplus lines insurer.

1703 c. For purposes of determining comparable coverage under
1704 sub-subparagraphs a. and b., the comparison must be based on
1705 those forms and coverages that are reasonably comparable. The
1706 corporation may rely on a determination of comparable coverage
1707 and premium made by the producing agent who submits the
1708 application to the corporation, made in the agent's capacity as
1709 the corporation's agent. For purposes of comparing the premium
1710 for comparable coverage under sub-subparagraphs a. and b.,
1711 premium includes any surcharge or assessment that is actually
1712 applied to such policy. A comparison may be made solely of the
1713 premium with respect to the main building or structure only on
1714 the following basis: the same Coverage A or other building
1715 limits; the same percentage hurricane deductible that applies on
1716 an annual basis or that applies to each hurricane for commercial
1717 residential property; the same percentage of ordinance and law
1718 coverage, if the same limit is offered by both the corporation
1719 and the authorized insurer; the same mitigation credits, to the
1720 extent the same types of credits are offered both by the
1721 corporation and the authorized insurer; the same method for loss
1722 payment, such as replacement cost or actual cash value, if the
1723 same method is offered both by the corporation and the
1724 authorized insurer in accordance with underwriting rules; and
1725 any other form or coverage that is reasonably comparable as

1726 | determined by the board. If an application is submitted to the
 1727 | corporation for wind-only coverage on a risk that is located in
 1728 | an area eligible for coverage by the Florida Windstorm
 1729 | Underwriting Association, as that area was defined on January 1,
 1730 | 2002, the premium for the corporation's wind-only policy plus
 1731 | the premium for the ex-wind policy that is offered by an
 1732 | authorized insurer to the applicant must be compared to the
 1733 | premium for multiperil coverage offered by an authorized
 1734 | insurer, subject to the standards for comparison specified in
 1735 | this subparagraph. If the corporation or the applicant requests
 1736 | from the authorized insurer a breakdown of the premium of the
 1737 | offer by types of coverage so that a comparison may be made by
 1738 | the corporation or its agent and the authorized insurer refuses
 1739 | or is unable to provide such information, the corporation may
 1740 | treat the offer as not being an offer of coverage from an
 1741 | authorized insurer at the insurer's approved rate. However,
 1742 | notwithstanding any other provision of law, this sub-
 1743 | subparagraph does not apply to a policy that does not cover a
 1744 | primary residence.

- 1745 | 6. Must include rules for classifications of risks and
- 1746 | rates.
- 1747 | 7. Must provide that if premium and investment income÷
- 1748 | ~~a.~~ for the Citizens ~~an~~ account which are attributable to a
- 1749 | particular calendar year are in excess of projected losses and
- 1750 | expenses for the Citizens account attributable to that year,

1751 such excess shall be held in surplus in the Citizens account.
 1752 Such surplus must be available to defray deficits in the
 1753 Citizens ~~that~~ account as to future years and used for that
 1754 purpose before assessing assessable insurers and assessable
 1755 insureds as to any calendar year; ~~or~~

1756 ~~b. For the Citizens account, if established by the~~
 1757 ~~corporation, which are attributable to a particular calendar~~
 1758 ~~year are in excess of projected losses and expenses for the~~
 1759 ~~Citizens account attributable to that year, such excess shall be~~
 1760 ~~held in surplus in the Citizens account. Such surplus must be~~
 1761 ~~available to defray deficits in the Citizens account as to~~
 1762 ~~future years and used for that purpose before assessing~~
 1763 ~~assessable insurers and assessable insureds as to any calendar~~
 1764 ~~year.~~

1765 8. Must provide objective criteria and procedures to be
 1766 uniformly applied to all applicants in determining whether an
 1767 individual risk is so hazardous as to be uninsurable. In making
 1768 this determination and in establishing the criteria and
 1769 procedures, the following must be considered:

1770 a. Whether the likelihood of a loss for the individual
 1771 risk is substantially higher than for other risks of the same
 1772 class; and

1773 b. Whether the uncertainty associated with the individual
 1774 risk is such that an appropriate premium cannot be determined.

1775

1776 The acceptance or rejection of a risk by the corporation shall
 1777 be construed as the private placement of insurance, and the
 1778 provisions of chapter 120 do not apply.

1779 9. Must provide that the corporation make its best efforts
 1780 to procure catastrophe reinsurance at reasonable rates, to cover
 1781 its projected 100-year probable maximum loss as determined by
 1782 the board of governors. If catastrophe reinsurance is not
 1783 available at reasonable rates, the corporation need not purchase
 1784 it, but the corporation shall include the costs of reinsurance
 1785 to cover its projected 100-year probable maximum loss in its
 1786 rate calculations even if it does not purchase catastrophe
 1787 reinsurance.

1788 10. ~~The policies issued by the corporation~~ Must provide in
 1789 the policies issued by the corporation that if the corporation
 1790 or the market assistance plan obtains an offer from an
 1791 authorized insurer to cover the risk at its approved rates, the
 1792 risk is no longer eligible for renewal through the corporation,
 1793 except as otherwise provided in this subsection.

1794 11. ~~Corporation policies and applications~~ Must include in
 1795 the corporation policies and applications a notice that the
 1796 corporation policy could, under this section, be replaced with a
 1797 policy issued by an authorized insurer which does not provide
 1798 coverage identical to the coverage provided by the corporation.
 1799 The notice must also specify that acceptance of corporation
 1800 coverage creates a conclusive presumption that the applicant or

1801 policyholder is aware of this potential.

1802 12. May establish, subject to approval by the office,
 1803 different eligibility requirements and operational procedures
 1804 for any line or type of coverage for any specified county or
 1805 area if the board determines that such changes are justified due
 1806 to the voluntary market being sufficiently stable and
 1807 competitive in such area or for such line or type of coverage
 1808 and that consumers who, in good faith, are unable to obtain
 1809 insurance through the voluntary market through ordinary methods
 1810 continue to have access to coverage from the corporation. If
 1811 coverage is sought in connection with a real property transfer,
 1812 the requirements and procedures may not provide an effective
 1813 date of coverage later than the date of the closing of the
 1814 transfer as established by the transferor, the transferee, and,
 1815 if applicable, the lender.

1816 ~~13. Must provide that:~~

1817 ~~a. With respect to the coastal account, any assessable~~
 1818 ~~insurer with a surplus as to policyholders of \$25 million or~~
 1819 ~~less writing 25 percent or more of its total countrywide~~
 1820 ~~property insurance premiums in this state may petition the~~
 1821 ~~office, within the first 90 days of each calendar year, to~~
 1822 ~~qualify as a limited apportionment company. A regular assessment~~
 1823 ~~levied by the corporation on a limited apportionment company for~~
 1824 ~~a deficit incurred by the corporation for the coastal account~~
 1825 ~~may be paid to the corporation on a monthly basis as the~~

1826 ~~assessments are collected by the limited apportionment company~~
1827 ~~from its insureds, but a limited apportionment company must~~
1828 ~~begin collecting the regular assessments not later than 90 days~~
1829 ~~after the regular assessments are levied by the corporation, and~~
1830 ~~the regular assessments must be paid in full within 15 months~~
1831 ~~after being levied by the corporation. A limited apportionment~~
1832 ~~company shall collect from its policyholders any emergency~~
1833 ~~assessment imposed under sub-subparagraph (b) 3.e. The plan must~~
1834 ~~provide that, if the office determines that any regular~~
1835 ~~assessment will result in an impairment of the surplus of a~~
1836 ~~limited apportionment company, the office may direct that all or~~
1837 ~~part of such assessment be deferred as provided in subparagraph~~
1838 ~~(g) 4. However, an emergency assessment to be collected from~~
1839 ~~policyholders under sub-subparagraph (b) 3.e. may not be limited~~
1840 ~~or deferred; or~~

1841 ~~b. With respect to the Citizens account, if established by~~
1842 ~~the corporation pursuant to sub-subparagraph (b) 2.b., any~~
1843 ~~assessable insurer with a surplus as to policyholders of \$25~~
1844 ~~million or less and writing 25 percent or more of its total~~
1845 ~~countrywide property insurance premiums in this state may~~
1846 ~~petition the office, within the first 90 days of each calendar~~
1847 ~~year, to qualify as a limited apportionment company. A limited~~
1848 ~~apportionment company shall collect from its policyholders any~~
1849 ~~emergency assessment imposed under sub-subparagraph (b) 5.c. An~~
1850 ~~emergency assessment to be collected from policyholders under~~

1851 ~~sub-subparagraph (b) 5.c. may not be limited or deferred.~~

1852 13.14. Must provide that the corporation appoint as its
1853 licensed agents only those agents who throughout such
1854 appointments also hold an appointment as defined in s. 626.015
1855 by at least three insurers ~~an insurer~~ who are ~~is~~ authorized to
1856 write and are ~~is~~ actually writing or renewing personal lines
1857 residential property coverage, commercial residential property
1858 coverage, or commercial nonresidential property coverage within
1859 the state.

1860 14.15. Must provide a premium payment plan option to its
1861 policyholders which, at a minimum, allows for quarterly and
1862 semiannual payment of premiums. A monthly payment plan may, but
1863 is not required to, be offered.

1864 15.16. Must limit coverage on mobile homes or manufactured
1865 homes built before 1994 to actual cash value of the dwelling
1866 rather than replacement costs of the dwelling.

1867 16.17. Must provide coverage for manufactured or mobile
1868 home dwellings. Such coverage must also include the following
1869 attached structures:

1870 a. Screened enclosures that are aluminum framed or
1871 screened enclosures that are not covered by the same or
1872 substantially the same materials as those of the primary
1873 dwelling;

1874 b. Carports that are aluminum or carports that are not
1875 covered by the same or substantially the same materials as those

1876 of the primary dwelling; and
 1877 c. Patios that have a roof covering that is constructed of
 1878 materials that are not the same or substantially the same
 1879 materials as those of the primary dwelling.
 1880
 1881 The corporation shall make available a policy for mobile homes
 1882 or manufactured homes for a minimum insured value of at least
 1883 \$3,000.
 1884 ~~17.18.~~ May provide such limits of coverage as the board
 1885 determines, consistent with the requirements of this subsection.
 1886 ~~18.19.~~ May require commercial property to meet specified
 1887 hurricane mitigation construction features as a condition of
 1888 eligibility for coverage.
 1889 ~~19.20.~~ Must provide that new or renewal policies issued by
 1890 the corporation on or after January 1, 2012, which cover
 1891 sinkhole loss do not include coverage for any loss to
 1892 appurtenant structures, driveways, sidewalks, decks, or patios
 1893 that are directly or indirectly caused by sinkhole activity. The
 1894 corporation shall exclude such coverage using a notice of
 1895 coverage change, which may be included with the policy renewal,
 1896 and not by issuance of a notice of nonrenewal of the excluded
 1897 coverage upon renewal of the current policy.
 1898 ~~20.a.21.a. As of January 1, 2012, unless the Citizens~~
 1899 ~~account has been established pursuant to sub-subparagraph~~
 1900 ~~(b)2.b.,~~ Must require that the agent obtain from an applicant

1901 for coverage from the corporation the following ~~an~~
 1902 acknowledgment signed by the applicant, which includes, at a
 1903 minimum, the following statement:

1904 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE
 1905 AND ASSESSMENT LIABILITY:

1906 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
 1907 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
 1908 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
 1909 MY POLICY COULD BE SUBJECT TO SURCHARGES AND ASSESSMENTS, WHICH
 1910 WILL BE DUE AND PAYABLE UPON RENEWAL, CANCELLATION, OR
 1911 TERMINATION OF THE POLICY, AND THAT THE SURCHARGES AND
 1912 ASSESSMENTS COULD BE AS HIGH AS 25 ~~45~~ PERCENT OF MY PREMIUM, OR
 1913 A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA LEGISLATURE.

1914 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER
 1915 SURCHARGE, WHICH COULD BE AS HIGH AS 15 ~~45~~ PERCENT OF MY
 1916 PREMIUM, BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND
 1917 THAT TO BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY
 1918 TO OBTAIN PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR
 1919 RENEWING COVERAGE WITH CITIZENS. I UNDERSTAND THAT PRIVATE
 1920 MARKET INSURANCE RATES ARE REGULATED AND APPROVED BY THE STATE.

1921 3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
 1922 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
 1923 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
 1924 FLORIDA LEGISLATURE.

1925 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE

1926 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
 1927 STATE OF FLORIDA.

1928 ~~b. The corporation must require, if it has established the~~
 1929 ~~Citizens account pursuant to sub-subparagraph (b)2.b., that the~~
 1930 ~~agent obtain from an applicant for coverage from the corporation~~
 1931 ~~the following acknowledgment signed by the applicant, which~~
 1932 ~~includes, at a minimum, the following statement:~~

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

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

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

1950 ~~3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY~~

1951 ~~ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER~~
 1952 ~~INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE~~
 1953 ~~FLORIDA LEGISLATURE.~~

1954 ~~4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE~~
 1955 ~~CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE~~
 1956 ~~STATE OF FLORIDA.~~

1957 b.e. The corporation shall maintain, in electronic format
 1958 or otherwise, a copy of the applicant's signed acknowledgment
 1959 and provide a copy of the statement to the policyholder as part
 1960 of the first renewal after the effective date of sub-
 1961 subparagraph a. ~~or sub-subparagraph b., as applicable.~~

1962 c.d. The signed acknowledgment form creates a conclusive
 1963 presumption that the policyholder understood and accepted his or
 1964 her potential surcharge and assessment liability as a
 1965 policyholder of the corporation.

1966 (d)1. All prospective employees for senior management
 1967 positions, as defined by the plan of operation, are subject to
 1968 background checks as a prerequisite for employment. The office
 1969 shall conduct the background checks pursuant to ss. 624.34,
 1970 624.404(3), and 628.261.

1971 2. On or before July 1 of each year, employees of the
 1972 corporation must sign and submit a statement attesting that they
 1973 do not have a conflict of interest, as defined in part III of
 1974 chapter 112. As a condition of employment, all prospective
 1975 employees must sign and submit to the corporation a conflict-of-

1976 interest statement.

1977 3. The executive director, senior managers, and members of

1978 the board of governors are subject to part III of chapter 112,

1979 including, but not limited to, the code of ethics and public

1980 disclosure and reporting of financial interests, pursuant to s.

1981 112.3145. For purposes of applying part III of chapter 112 to

1982 activities of the executive director, senior managers, and

1983 members of the board of governors, those persons shall be

1984 considered public officers or employees and the corporation

1985 shall be considered their agency. Notwithstanding s.

1986 112.3143(2), a board member may not vote on any measure that

1987 would inure to his or her special private gain or loss; that he

1988 or she knows would inure to the special private gain or loss of

1989 any principal by whom he or she is retained or to the parent

1990 organization or subsidiary of a corporate principal by which he

1991 or she is retained, other than an agency as defined in s.

1992 112.312; or that he or she knows would inure to the special

1993 private gain or loss of a relative or business associate of the

1994 public officer. Before the vote is taken, such member shall

1995 publicly state to the assembly the nature of his or her interest

1996 in the matter from which he or she is abstaining from voting

1997 and, within 15 days after the vote occurs, disclose the nature

1998 of his or her interest as a public record in a memorandum filed

1999 with the person responsible for recording the minutes of the

2000 meeting, who shall incorporate the memorandum in the minutes.

2001 Senior managers and board members are also required to file such
 2002 disclosures with the Commission on Ethics and the Office of
 2003 Insurance Regulation. The executive director of the corporation
 2004 or his or her designee shall notify each existing and newly
 2005 appointed member of the board of governors and senior managers
 2006 of their duty to comply with the reporting requirements of part
 2007 III of chapter 112. At least quarterly, the executive director
 2008 or his or her designee shall submit to the Commission on Ethics
 2009 a list of names of the senior managers and members of the board
 2010 of governors who are subject to the public disclosure
 2011 requirements under s. 112.3145.

2012 4. Notwithstanding s. 112.3148, s. 112.3149, or any other
 2013 provision of law, an employee or board member may not knowingly
 2014 accept, directly or indirectly, any gift or expenditure from a
 2015 person or entity, or an employee or representative of such
 2016 person or entity, which has a contractual relationship with the
 2017 corporation or who is under consideration for a contract. An
 2018 employee or board member who fails to comply with subparagraph
 2019 3. or this subparagraph is subject to penalties provided under
 2020 ss. 112.317 and 112.3173.

2021 5. Any senior manager of the corporation who is employed
 2022 on or after January 1, 2007, regardless of the date of hire, who
 2023 subsequently retires or terminates employment is prohibited from
 2024 representing another person or entity before the corporation for
 2025 2 years after retirement or termination of employment from the

2026 corporation.

2027 6. The executive director, members of the board of
 2028 governors, and senior managers of the corporation are prohibited
 2029 from having any employment or contractual relationship for 2
 2030 years after retirement from or termination of service to the
 2031 corporation with an insurer that has entered into a take-out
 2032 bonus agreement with the corporation.

2033 (e) The corporation is subject to s. 287.057 for the
 2034 purchase of commodities and contractual services except as
 2035 otherwise provided in this paragraph. Services provided by
 2036 tradepersons or technical experts to assist a licensed adjuster
 2037 in the evaluation of individual claims are not subject to the
 2038 procurement requirements of this section. Additionally, the
 2039 procurement of financial services providers and underwriters
 2040 must be made pursuant to s. 627.3513. Contracts for goods or
 2041 services valued at or more than \$100,000 are subject to approval
 2042 by the board.

2043 1. The corporation is an agency for purposes of s.
 2044 287.057, except that, for purposes of s. 287.057(24), the
 2045 corporation is an eligible user.

2046 a. The authority of the Department of Management Services
 2047 and the Chief Financial Officer under s. 287.057 extends to the
 2048 corporation as if the corporation were an agency.

2049 b. The executive director of the corporation is the agency
 2050 head under s. 287.057, ~~except for resolution of bid protests for~~

2051 ~~which the board would serve as the agency head. The executive~~
 2052 ~~director may assign or appoint a designee to act on his or her~~
 2053 ~~behalf.~~

2054 2. The corporation must provide notice of a decision or
 2055 intended decision concerning a solicitation, contract award, or
 2056 exceptional purchase by electronic posting. Such notice must
 2057 contain the following statement: "Failure to file a protest
 2058 within the time prescribed in this section constitutes a waiver
 2059 of proceedings."

2060 a. A person adversely affected by the corporation's
 2061 decision or intended decision to award a contract pursuant to s.
 2062 287.057(1) or (3)(c) who elects to challenge the decision must
 2063 file a written notice of protest with the executive director of
 2064 the corporation within 72 hours after the corporation posts a
 2065 notice of its decision or intended decision. For a protest of
 2066 the terms, conditions, and specifications contained in a
 2067 solicitation, including provisions governing the methods for
 2068 ranking bids, proposals, replies, awarding contracts, reserving
 2069 rights of further negotiation, or modifying or amending any
 2070 contract, the notice of protest must be filed in writing within
 2071 72 hours after posting the solicitation. Saturdays, Sundays, and
 2072 state holidays are excluded in the computation of the 72-hour
 2073 time period.

2074 b. A formal written protest must be filed within 10 days
 2075 after the date the notice of protest is filed. The formal

2076 written protest must state with particularity the facts and law
 2077 upon which the protest is based. Upon receipt of a formal
 2078 written protest that has been timely filed, the corporation must
 2079 stop the solicitation or contract award process until the
 2080 subject of the protest is resolved by final board action unless
 2081 the executive director sets forth in writing particular facts
 2082 and circumstances that require the continuance of the
 2083 solicitation or contract award process without delay in order to
 2084 avoid an immediate and serious danger to the public health,
 2085 safety, or welfare.

2086 (I) The corporation must provide an opportunity to resolve
 2087 the protest by mutual agreement between the parties within 7
 2088 business days after receipt of the formal written protest.

2089 (II) If the subject of a protest is not resolved by mutual
 2090 agreement within 7 business days, the corporation's board must
 2091 transmit the protest to the Division of Administrative Hearings
 2092 and contract with the division to conduct a hearing to determine
 2093 the merits of the protest and to issue a recommended order. The
 2094 contract must provide for the corporation to reimburse the
 2095 division for any costs incurred by the division for court
 2096 reporters, transcript preparation, travel, facility rental, and
 2097 other customary hearing costs in the manner set forth in s.
 2098 120.65(9). The division has jurisdiction to determine the facts
 2099 and law concerning the protest and to issue a recommended order.
 2100 The division's rules and procedures apply to these proceedings~~+~~

2101 ~~the division's applicable bond requirements do not apply.~~ The
2102 protest must be heard by the division at a publicly noticed
2103 meeting in accordance with procedures established by the
2104 division.

2105 c. In a protest of an invitation-to-bid or request-for-
2106 proposals procurement, submissions made after the bid or
2107 proposal opening which amend or supplement the bid or proposal
2108 may not be considered. In protesting an invitation-to-negotiate
2109 procurement, submissions made after the corporation announces
2110 its intent to award a contract, reject all replies, or withdraw
2111 the solicitation that amends or supplements the reply may not be
2112 considered. Unless otherwise provided by law, the burden of
2113 proof rests with the party protesting the corporation's action.
2114 In a competitive-procurement protest, other than a rejection of
2115 all bids, proposals, or replies, the administrative law judge
2116 must conduct a de novo proceeding to determine whether the
2117 corporation's proposed action is contrary to the corporation's
2118 governing statutes, the corporation's rules or policies, or the
2119 solicitation specifications. The standard of proof for the
2120 proceeding is whether the corporation's action was clearly
2121 erroneous, contrary to competition, arbitrary, or capricious. In
2122 any bid-protest proceeding contesting an intended corporation
2123 action to reject all bids, proposals, or replies, the standard
2124 of review by the board is whether the corporation's intended
2125 action is illegal, arbitrary, dishonest, or fraudulent.

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2024

2126 d. Failure to file a notice of protest or failure to file
2127 a formal written protest constitutes a waiver of proceedings.

2128 3. The ~~board, acting as~~ agency head or his or her
2129 designee, shall consider the recommended order of an
2130 administrative law judge ~~in a public meeting~~ and take final
2131 action on the protest. Any further legal remedy lies with the
2132 First District Court of Appeal.

2133 (f) The corporation is subject to the provisions of
2134 chapter 255.

2135 (g) The board shall determine whether it is more cost-
2136 effective and in the best interests of the corporation to use
2137 legal services provided by in-house attorneys employed by the
2138 corporation rather than contracting with outside counsel. In
2139 making such determination, the board shall document its findings
2140 and shall consider: the expertise needed; whether time
2141 commitments exceed in-house staff resources; whether local
2142 representation is needed; the travel, lodging and other costs
2143 associated with in-house representation; and such other factors
2144 that the board determines are relevant.

2145 (h) The corporation may not retain a lobbyist to represent
2146 it before the legislative branch or executive branch. However,
2147 full-time employees of the corporation may register as lobbyists
2148 and represent the corporation before the legislative branch or
2149 executive branch.

2150 (i)1. The Office of the Internal Auditor is established

2151 within the corporation to provide a central point for
2152 coordination of and responsibility for activities that promote
2153 accountability, integrity, and efficiency to the policyholders
2154 and to the taxpayers of this state. The internal auditor shall
2155 be appointed by the board of governors, shall report to and be
2156 under the general supervision of the board of governors, and is
2157 not subject to supervision by an employee of the corporation.
2158 Administrative staff and support shall be provided by the
2159 corporation. The internal auditor shall be appointed without
2160 regard to political affiliation. It is the duty and
2161 responsibility of the internal auditor to:

2162 a. Provide direction for, supervise, conduct, and
2163 coordinate audits, investigations, and management reviews
2164 relating to the programs and operations of the corporation.

2165 b. Conduct, supervise, or coordinate other activities
2166 carried out or financed by the corporation for the purpose of
2167 promoting efficiency in the administration of, or preventing and
2168 detecting fraud, abuse, and mismanagement in, its programs and
2169 operations.

2170 c. Submit final audit reports, reviews, or investigative
2171 reports to the board of governors, the executive director, the
2172 members of the Financial Services Commission, and the President
2173 of the Senate and the Speaker of the House of Representatives.

2174 d. Keep the board of governors informed concerning fraud,
2175 abuses, and internal control deficiencies relating to programs

2176 | and operations administered or financed by the corporation,
 2177 | recommend corrective action, and report on the progress made in
 2178 | implementing corrective action.

2179 | e. Cooperate and coordinate activities with the
 2180 | corporation's inspector general.

2181 | 2. On or before February 15, the internal auditor shall
 2182 | prepare an annual report evaluating the effectiveness of the
 2183 | internal controls of the corporation and providing
 2184 | recommendations for corrective action, if necessary, and
 2185 | summarizing the audits, reviews, and investigations conducted by
 2186 | the office during the preceding fiscal year. The final report
 2187 | shall be furnished to the board of governors and the executive
 2188 | director, the President of the Senate, the Speaker of the House
 2189 | of Representatives, and the Financial Services Commission.

2190 | (j) All records of the corporation, except as otherwise
 2191 | provided by law, are subject to the record retention
 2192 | requirements of s. 119.021.

2193 | (k)1. The corporation shall establish and maintain a unit
 2194 | or division to investigate possible fraudulent claims by
 2195 | insureds or by persons making claims for services or repairs
 2196 | against policies held by insureds; or it may contract with
 2197 | others to investigate possible fraudulent claims for services or
 2198 | repairs against policies held by the corporation pursuant to s.
 2199 | 626.9891. The corporation must comply with reporting
 2200 | requirements of s. 626.9891. An employee of the corporation

2201 shall notify the corporation's Office of the Inspector General
2202 and the Division of Investigative and Forensic Services within
2203 48 hours after having information that would lead a reasonable
2204 person to suspect that fraud may have been committed by any
2205 employee of the corporation.

2206 2. The corporation shall establish a unit or division
2207 responsible for receiving and responding to consumer complaints,
2208 which unit or division is the sole responsibility of a senior
2209 manager of the corporation.

2210 (1) The office shall conduct a comprehensive market
2211 conduct examination of the corporation every 2 years to
2212 determine compliance with its plan of operation and internal
2213 operations procedures. The first market conduct examination
2214 report shall be submitted to the President of the Senate and the
2215 Speaker of the House of Representatives no later than February
2216 1, 2009. Subsequent reports shall be submitted on or before
2217 February 1 every 2 years thereafter.

2218 (m) The Auditor General shall conduct an operational audit
2219 of the corporation every 3 years to evaluate management's
2220 performance in administering laws, policies, and procedures
2221 governing the operations of the corporation in an efficient and
2222 effective manner. The scope of the review shall include, but is
2223 not limited to, evaluating claims handling, customer service,
2224 take-out programs and bonuses, financing arrangements,
2225 procurement of goods and services, internal controls, and the

2226 | internal audit function. The initial audit must be completed by
 2227 | February 1, 2009.

2228 | (n)1. Rates for coverage provided by the corporation must
 2229 | be actuarially sound pursuant to s. 627.062 and not competitive
 2230 | with approved rates charged in the admitted voluntary market so
 2231 | that the corporation functions as a residual market mechanism to
 2232 | provide insurance only when insurance cannot be procured in the
 2233 | voluntary market, except as otherwise provided in this
 2234 | paragraph. The office shall provide the corporation such
 2235 | information as would be necessary to determine whether rates are
 2236 | competitive. The corporation shall file its recommended rates
 2237 | with the office at least annually. The corporation shall provide
 2238 | any additional information regarding the rates which the office
 2239 | requires. The office shall consider the recommendations of the
 2240 | board and issue a final order establishing the rates for the
 2241 | corporation within 45 days after the recommended rates are
 2242 | filed. The corporation may not pursue an administrative
 2243 | challenge or judicial review of the final order of the office.

2244 | 2. In addition to the rates otherwise determined pursuant
 2245 | to this paragraph, the corporation shall impose and collect an
 2246 | amount equal to the premium tax provided in s. 624.509 to
 2247 | augment the financial resources of the corporation.

2248 | 3. After the public hurricane loss-projection model under
 2249 | s. 627.06281 has been found to be accurate and reliable by the
 2250 | Florida Commission on Hurricane Loss Projection Methodology, the

2251 model shall be considered when establishing the windstorm
 2252 portion of the corporation's rates. The corporation may use the
 2253 public model results in combination with the results of private
 2254 models to calculate rates for the windstorm portion of the
 2255 corporation's rates. This subparagraph does not require or allow
 2256 the corporation to adopt rates lower than the rates otherwise
 2257 required or allowed by this paragraph.

2258 4. The corporation must make a recommended actuarially
 2259 sound rate filing for each personal and commercial line of
 2260 business it writes.

2261 5. Notwithstanding the board's recommended rates and the
 2262 office's final order regarding the corporation's filed rates
 2263 under subparagraph 1., the corporation shall annually implement
 2264 a rate increase which, except for sinkhole coverage, does not
 2265 exceed the following for any single policy issued by the
 2266 corporation, excluding coverage changes and surcharges:

2267 ~~a. Twelve percent for 2023.~~

2268 a.b. Thirteen percent for 2024.

2269 ~~b.e.~~ Fourteen percent for 2025.

2270 c.d. Fifteen percent for 2026 and all subsequent years.

2271 6. The corporation may also implement an increase to
 2272 reflect the effect on the corporation of the cash buildup factor
 2273 pursuant to s. 215.555(5)(b).

2274 7. The corporation's implementation of rates as prescribed
 2275 in subparagraphs 5. and 8. shall cease for any line of business

2276 written by the corporation upon the corporation's implementation
 2277 of actuarially sound rates. Thereafter, the corporation shall
 2278 annually make a recommended actuarially sound rate filing that
 2279 is not competitive with approved rates in the admitted voluntary
 2280 market for each commercial and personal line of business the
 2281 corporation writes.

2282 8. The following new or renewal personal lines policies
 2283 written on or after November 1, 2023, are not subject to the
 2284 rate increase limitations in subparagraph 5., but may not be
 2285 charged more than 50 percent above, and may not be charged ~~nor~~
 2286 less than, the prior year's established rate for the
 2287 corporation:

2288 a. Policies that do not cover a primary residence;
 2289 b. New policies under which the coverage for the insured
 2290 risk, before the date of application with the corporation, was
 2291 last provided by an insurer determined by the office to be
 2292 unsound or an insurer placed in receivership under chapter 631;
 2293 or

2294 c. Subsequent renewals of those policies, including the
 2295 new policies in sub-subparagraph b., under which the coverage
 2296 for the insured risk, before the date of application with the
 2297 corporation, was last provided by an insurer determined by the
 2298 office to be unsound or an insurer placed in receivership under
 2299 chapter 631.

2300 9. As used in this paragraph, the term "primary residence"

2301 means the dwelling that is the policyholder's primary home or is
2302 a rental property that is the primary home of the tenant, and
2303 which the policyholder or tenant occupies for more than 9 months
2304 of each year.

2305 (o) If coverage in ~~an account, or~~ the Citizens account ~~if~~
2306 ~~established by the corporation,~~ is deactivated pursuant to
2307 paragraph (p), coverage through the corporation shall be
2308 reactivated by order of the office only under one of the
2309 following circumstances:

2310 1. If the market assistance plan receives a minimum of 100
2311 applications for coverage within a 3-month period, or 200
2312 applications for coverage within a 1-year period or less for
2313 residential coverage, unless the market assistance plan provides
2314 a quotation from authorized ~~admitted~~ carriers at their approved
2315 ~~filed~~ rates for at least 90 percent of such applicants. Any
2316 market assistance plan application that is rejected because an
2317 individual risk is so hazardous as to be uninsurable using the
2318 criteria specified in subparagraph (c)8. shall not be included
2319 in the minimum percentage calculation provided herein. In the
2320 event that there is a legal or administrative challenge to a
2321 determination by the office that the conditions of this
2322 subparagraph have been met for eligibility for coverage in the
2323 corporation, any eligible risk may obtain coverage during the
2324 pendency of such challenge.

2325 2. In response to a state of emergency declared by the

2326 Governor under s. 252.36, the office may activate coverage by
 2327 order for the period of the emergency upon a finding by the
 2328 office that the emergency significantly affects the availability
 2329 of residential property insurance.

2330 (p)1. The corporation shall file with the office quarterly
 2331 statements of financial condition, an annual statement of
 2332 financial condition, and audited financial statements in the
 2333 manner prescribed by law. In addition, the corporation shall
 2334 report to the office monthly on the types, premium, exposure,
 2335 and distribution by county of its policies in force, and shall
 2336 submit other reports as the office requires to carry out its
 2337 oversight of the corporation.

2338 2. The activities of the corporation shall be reviewed at
 2339 least annually by the office to determine whether coverage shall
 2340 be deactivated ~~in an account, or~~ in the Citizens account ~~if~~
 2341 ~~established by the corporation,~~ on the basis that the conditions
 2342 giving rise to its activation no longer exist.

2343 (q)1. The corporation shall certify to the office its
 2344 needs for annual assessments as to a particular calendar year,
 2345 and for any interim assessments that it deems to be necessary to
 2346 sustain operations as to a particular year pending the receipt
 2347 of annual assessments. Upon verification, the office shall
 2348 approve such certification, and the corporation shall levy such
 2349 annual or interim assessments. Such assessments shall be
 2350 prorated, if authority to levy exists, as provided in paragraph

2351 (b). The corporation shall take all reasonable and prudent steps
 2352 necessary to collect the amount of assessments due from each
 2353 assessable insurer, including, if prudent, filing suit to
 2354 collect the assessments, and the office may provide such
 2355 assistance to the corporation it deems appropriate. If the
 2356 corporation is unable to collect an assessment from any
 2357 assessable insurer, the uncollected assessments shall be levied
 2358 as an additional assessment against the assessable insurers and
 2359 any assessable insurer required to pay an additional assessment
 2360 as a result of such failure to pay shall have a cause of action
 2361 against such nonpaying assessable insurer. Assessments shall be
 2362 included as an appropriate factor in the making of rates. The
 2363 failure of a surplus lines agent to collect and remit any
 2364 regular or emergency assessment levied by the corporation is
 2365 considered to be a violation of s. 626.936 and subjects the
 2366 surplus lines agent to the penalties provided in that section.

2367 2. The governing body of any unit of local government, any
 2368 residents of which are insured by the corporation, may issue
 2369 bonds as defined in s. 125.013 or s. 166.101 from time to time
 2370 to fund an assistance program, in conjunction with the
 2371 corporation, for the purpose of defraying deficits of the
 2372 corporation. In order to avoid needless and indiscriminate
 2373 proliferation, duplication, and fragmentation of such assistance
 2374 programs, any unit of local government, any residents of which
 2375 are insured by the corporation, may provide for the payment of

2376 losses, regardless of whether or not the losses occurred within
 2377 or outside of the territorial jurisdiction of the local
 2378 government. Revenue bonds under this subparagraph may not be
 2379 issued until validated pursuant to chapter 75, unless a state of
 2380 emergency is declared by executive order or proclamation of the
 2381 Governor pursuant to s. 252.36 making such findings as are
 2382 necessary to determine that it is in the best interests of, and
 2383 necessary for, the protection of the public health, safety, and
 2384 general welfare of residents of this state and declaring it an
 2385 essential public purpose to permit certain municipalities or
 2386 counties to issue such bonds as will permit relief to claimants
 2387 and policyholders of the corporation. Any such unit of local
 2388 government may enter into such contracts with the corporation
 2389 and with any other entity created pursuant to this subsection as
 2390 are necessary to carry out this paragraph. Any bonds issued
 2391 under this subparagraph shall be payable from and secured by
 2392 moneys received by the corporation from emergency assessments
 2393 under sub-subparagraph (b)3.c. ~~(b)3.e.~~, and assigned and pledged
 2394 to or on behalf of the unit of local government for the benefit
 2395 of the holders of such bonds. The funds, credit, property, and
 2396 taxing power of the state or of the unit of local government
 2397 shall not be pledged for the payment of such bonds.

2398 3.a. The corporation shall adopt one or more programs
 2399 subject to approval by the office for the reduction of both new
 2400 and renewal writings in the corporation. Beginning January 1,

2401 2008, any program the corporation adopts for the payment of
2402 bonuses to an insurer for each risk the insurer removes from the
2403 corporation shall comply with s. 627.3511(2) and may not exceed
2404 the amount referenced in s. 627.3511(2) for each risk removed.
2405 The corporation may consider any prudent and not unfairly
2406 discriminatory approach to reducing corporation writings, and
2407 may adopt a credit against assessment liability or other
2408 liability that provides an incentive for insurers to take risks
2409 out of the corporation and to keep risks out of the corporation
2410 by maintaining or increasing voluntary writings in counties or
2411 areas in which corporation risks are highly concentrated and a
2412 program to provide a formula under which an insurer voluntarily
2413 taking risks out of the corporation by maintaining or increasing
2414 voluntary writings will be relieved wholly or partially from
2415 assessments ~~under sub-subparagraph (b) 3.a.~~ However, any "take-
2416 out bonus" or payment to an insurer must be conditioned on the
2417 property being insured for at least 5 years by the insurer,
2418 unless canceled or nonrenewed by the policyholder. If the policy
2419 is canceled or nonrenewed by the policyholder before the end of
2420 the 5-year period, the amount of the take-out bonus must be
2421 prorated for the time period the policy was insured. When the
2422 corporation enters into a contractual agreement for a take-out
2423 plan, the producing agent of record of the corporation policy is
2424 entitled to retain any unearned commission on such policy, and
2425 the insurer shall either:

2426 (I) Pay to the producing agent of record of the policy,
 2427 for the first year, an amount which is the greater of the
 2428 insurer's usual and customary commission for the type of policy
 2429 written or a policy fee equal to the usual and customary
 2430 commission of the corporation; or

2431 (II) Offer to allow the producing agent of record of the
 2432 policy to continue servicing the policy for a period of not less
 2433 than 1 year and offer to pay the agent the insurer's usual and
 2434 customary commission for the type of policy written. If the
 2435 producing agent is unwilling or unable to accept appointment by
 2436 the new insurer for any reason, including the failure of such
 2437 agent to be licensed as surplus lines agent, the new insurer
 2438 shall pay the agent in accordance with sub-sub-subparagraph (I).

2439 b. Any credit or exemption from regular assessments
 2440 adopted under this subparagraph shall last no longer than the 3
 2441 years following the cancellation or expiration of the policy by
 2442 the corporation. With the approval of the office, the board may
 2443 extend such credits for an additional year if the insurer
 2444 guarantees an additional year of renewability for all policies
 2445 removed from the corporation, or for 2 additional years if the
 2446 insurer guarantees 2 additional years of renewability for all
 2447 policies so removed.

2448 c. There shall be no credit, limitation, exemption, or
 2449 deferment from emergency assessments to be collected from
 2450 policyholders pursuant to sub-subparagraph (b)3.c. ~~(b)3.e. or~~

2451 ~~sub-subparagraph (b) 5.c.~~

2452 ~~4. The plan shall provide for the deferment, in whole or~~
2453 ~~in part, of the assessment of an assessable insurer, other than~~
2454 ~~an emergency assessment collected from policyholders pursuant to~~
2455 ~~sub-subparagraph (b) 3.c. or sub-subparagraph (b) 5.c., if the~~
2456 ~~office finds that payment of the assessment would endanger or~~
2457 ~~impair the solvency of the insurer. In the event an assessment~~
2458 ~~against an assessable insurer is deferred in whole or in part,~~
2459 ~~the amount by which such assessment is deferred may be assessed~~
2460 ~~against the other assessable insurers in a manner consistent~~
2461 ~~with the basis for assessments set forth in paragraph (b).~~

2462 ~~4.5.~~ Effective July 1, 2007, in order to evaluate the
2463 costs and benefits of approved take-out plans, if the
2464 corporation pays a bonus or other payment to an insurer for an
2465 approved take-out plan, it shall maintain a record of the
2466 address or such other identifying information on the property or
2467 risk removed in order to track if and when the property or risk
2468 is later insured by the corporation.

2469 ~~5.6.~~ Any policy taken out, assumed, or removed from the
2470 corporation is, as of the effective date of the take-out,
2471 assumption, or removal, direct insurance issued by the insurer
2472 and not by the corporation, even if the corporation continues to
2473 service the policies. This subparagraph applies to policies of
2474 the corporation and not policies taken out, assumed, or removed
2475 from any other entity.

2476 6.7. For a policy taken out, assumed, or removed from the
 2477 corporation, the insurer may, for a period of no more than 3
 2478 years, continue to use any of the corporation's policy forms or
 2479 endorsements that apply to the policy taken out, removed, or
 2480 assumed without obtaining approval from the office for use of
 2481 such policy form or endorsement.

2482 (r) Nothing in this subsection shall be construed to
 2483 preclude the issuance of residential property insurance coverage
 2484 pursuant to part VIII of chapter 626.

2485 (s)1. There shall be no liability on the part of, and no
 2486 cause of action of any nature shall arise against, any
 2487 assessable insurer or its agents or employees, the corporation
 2488 or its agents or employees, members of the board of governors or
 2489 their respective designees at a board meeting, corporation
 2490 committee members, or the office or its representatives, for any
 2491 action taken by them in the performance of their duties or
 2492 responsibilities under this subsection. Such immunity does not
 2493 apply to:

- 2494 a. Any of the foregoing persons or entities for any
- 2495 willful tort;
- 2496 b. The corporation or its producing agents for breach of
- 2497 any contract or agreement pertaining to insurance coverage;
- 2498 c. The corporation with respect to issuance or payment of
- 2499 debt;
- 2500 d. Any assessable insurer with respect to any action to

2501 enforce an assessable insurer's obligations to the corporation
 2502 under this subsection; or

2503 e. The corporation in any pending or future action for
 2504 breach of contract or for benefits under a policy issued by the
 2505 corporation.

2506 2. The corporation shall manage its claim employees,
 2507 independent adjusters, and others who handle claims to ensure
 2508 they carry out the corporation's duty to its policyholders to
 2509 handle claims carefully, timely, diligently, and in good faith,
 2510 balanced against the corporation's duty to the state to manage
 2511 its assets responsibly to minimize its assessment potential.

2512 (t) For the purposes of s. 199.183(1), the corporation
 2513 shall be considered a political subdivision of the state and
 2514 shall be exempt from the corporate income tax. The premiums,
 2515 assessments, investment income, and other revenue of the
 2516 corporation are funds received for providing property insurance
 2517 coverage as required by this subsection, paying claims for
 2518 Florida citizens insured by the corporation, securing and
 2519 repaying debt obligations issued by the corporation, and
 2520 conducting all other activities of the corporation, and shall
 2521 not be considered taxes, fees, licenses, or charges for services
 2522 imposed by the Legislature on individuals, businesses, or
 2523 agencies outside state government. Bonds and other debt
 2524 obligations issued by or on behalf of the corporation are not to
 2525 be considered "state bonds" within the meaning of s. 215.58(8).

2526 The corporation is subject to the procurement provisions of
2527 chapter 287 as provided in paragraph (e), and policies and
2528 decisions of the corporation relating to incurring debt, levying
2529 of assessments and the sale, issuance, continuation, terms and
2530 claims under corporation policies, and all services relating
2531 thereto, are not subject to the provisions of chapter 120. The
2532 corporation is not required to obtain or to hold a certificate
2533 of authority issued by the office, nor is it required to
2534 participate as a member insurer of the Florida Insurance
2535 Guaranty Association. However, the corporation is required to
2536 pay, in the same manner as an authorized insurer, assessments
2537 levied by the Florida Insurance Guaranty Association. It is the
2538 intent of the Legislature that the tax exemptions provided in
2539 this paragraph will augment the financial resources of the
2540 corporation to better enable the corporation to fulfill its
2541 public purposes. Any debt obligations issued by the corporation,
2542 their transfer, and the income therefrom, including any profit
2543 made on the sale thereof, shall at all times be free from
2544 taxation of every kind by the state and any political
2545 subdivision or local unit or other instrumentality thereof;
2546 however, this exemption does not apply to any tax imposed by
2547 chapter 220 on interest, income, or profits on debt obligations
2548 owned by corporations other than the corporation.

2549 (u) Upon a determination by the office that the conditions
2550 giving rise to the establishment and activation of the

2551 corporation no longer exist, the corporation is dissolved. Upon
2552 dissolution, the assets of the corporation shall be applied
2553 first to pay all debts, liabilities, and obligations of the
2554 corporation, including the establishment of reasonable reserves
2555 for any contingent liabilities or obligations, and all remaining
2556 assets of the corporation shall become property of the state and
2557 shall be deposited in the Florida Hurricane Catastrophe Fund.
2558 However, no dissolution shall take effect as long as the
2559 corporation has bonds or other financial obligations outstanding
2560 unless adequate provision has been made for the payment of the
2561 bonds or other financial obligations pursuant to the documents
2562 authorizing the issuance of the bonds or other financial
2563 obligations.

2564 (v)1. Effective July 1, 2002, policies of the Residential
2565 Property and Casualty Joint Underwriting Association become
2566 policies of the corporation. All obligations, rights, assets and
2567 liabilities of the association, including bonds, note and debt
2568 obligations, and the financing documents pertaining to them
2569 become those of the corporation as of July 1, 2002. The
2570 corporation is not required to issue endorsements or
2571 certificates of assumption to insureds during the remaining term
2572 of in-force transferred policies.

2573 2. Effective July 1, 2002, policies of the Florida
2574 Windstorm Underwriting Association are transferred to the
2575 corporation and become policies of the corporation. All

2576 obligations, rights, assets, and liabilities of the association,
2577 including bonds, note and debt obligations, and the financing
2578 documents pertaining to them are transferred to and assumed by
2579 the corporation on July 1, 2002. The corporation is not required
2580 to issue endorsements or certificates of assumption to insureds
2581 during the remaining term of in-force transferred policies.

2582 3. The Florida Windstorm Underwriting Association and the
2583 Residential Property and Casualty Joint Underwriting Association
2584 shall take all actions necessary to further evidence the
2585 transfers and provide the documents and instruments of further
2586 assurance as may reasonably be requested by the corporation for
2587 that purpose. The corporation shall execute assumptions and
2588 instruments as the trustees or other parties to the financing
2589 documents of the Florida Windstorm Underwriting Association or
2590 the Residential Property and Casualty Joint Underwriting
2591 Association may reasonably request to further evidence the
2592 transfers and assumptions, which transfers and assumptions,
2593 however, are effective on the date provided under this paragraph
2594 whether or not, and regardless of the date on which, the
2595 assumptions or instruments are executed by the corporation.
2596 ~~Subject to the relevant financing documents pertaining to their~~
2597 ~~outstanding bonds, notes, indebtedness, or other financing~~
2598 ~~obligations, the moneys, investments, receivables, choses in~~
2599 ~~action, and other intangibles of the Florida Windstorm~~
2600 ~~Underwriting Association shall be credited to the coastal~~

2601 ~~account of the corporation, and those of the personal lines~~
 2602 ~~residential coverage account and the commercial lines~~
 2603 ~~residential coverage account of the Residential Property and~~
 2604 ~~Casualty Joint Underwriting Association shall be credited to the~~
 2605 ~~personal lines account and the commercial lines account,~~
 2606 ~~respectively, of the corporation.~~

2607 4. Effective July 1, 2002, a new applicant for property
 2608 insurance coverage who would otherwise have been eligible for
 2609 coverage in the Florida Windstorm Underwriting Association is
 2610 eligible for coverage from the corporation as provided in this
 2611 subsection.

2612 5. The transfer of all policies, obligations, rights,
 2613 assets, and liabilities from the Florida Windstorm Underwriting
 2614 Association to the corporation and the renaming of the
 2615 Residential Property and Casualty Joint Underwriting Association
 2616 as the corporation does not affect the coverage with respect to
 2617 covered policies as defined in s. 215.555(2)(c) provided to
 2618 these entities by the Florida Hurricane Catastrophe Fund. ~~The~~
 2619 ~~coverage provided by the fund to the Florida Windstorm~~
 2620 ~~Underwriting Association based on its exposures as of June 30,~~
 2621 ~~2002, and each June 30 thereafter, unless the corporation has~~
 2622 ~~established the Citizens account, shall be redesignated as~~
 2623 ~~coverage for the coastal account of the corporation.~~
 2624 ~~Notwithstanding any other provision of law, the coverage~~
 2625 ~~provided by the fund to the Residential Property and Casualty~~

2626 ~~Joint Underwriting Association based on its exposures as of June~~
2627 ~~30, 2002, and each June 30 thereafter, unless the corporation~~
2628 ~~has established the Citizens account, shall be transferred to~~
2629 ~~the personal lines account and the commercial lines account of~~
2630 ~~the corporation. Notwithstanding any other provision of law, the~~
2631 ~~coastal account, unless the corporation has established the~~
2632 ~~Citizens account, shall be treated, for all Florida Hurricane~~
2633 ~~Catastrophe Fund purposes, as if it were a separate~~
2634 ~~participating insurer with its own exposures, reimbursement~~
2635 ~~premium, and loss reimbursement. Likewise, the personal lines~~
2636 ~~and commercial lines accounts, unless the corporation has~~
2637 ~~established the Citizens account, shall be viewed together, for~~
2638 ~~all fund purposes, as if the two accounts were one and represent~~
2639 ~~a single, separate participating insurer with its own exposures,~~
2640 ~~reimbursement premium, and loss reimbursement. The coverage~~
2641 ~~provided by the fund to the corporation shall constitute and~~
2642 ~~operate as a full transfer of coverage from the Florida~~
2643 ~~Windstorm Underwriting Association and Residential Property and~~
2644 ~~Casualty Joint Underwriting Association to the corporation.~~

2645 (w) Notwithstanding any other provision of law:

2646 1. The pledge or sale of, the lien upon, and the security
2647 interest in any rights, revenues, or other assets of the
2648 corporation created or purported to be created pursuant to any
2649 financing documents to secure any bonds or other indebtedness of
2650 the corporation shall be and remain valid and enforceable,

2651 notwithstanding the commencement of and during the continuation
2652 of, and after, any rehabilitation, insolvency, liquidation,
2653 bankruptcy, receivership, conservatorship, reorganization, or
2654 similar proceeding against the corporation under the laws of
2655 this state.

2656 2. The proceeding does not relieve the corporation of its
2657 obligation, or otherwise affect its ability to perform its
2658 obligation, to continue to collect, or levy and collect,
2659 assessments, policyholder surcharges or other surcharges ~~under~~
2660 ~~sub-subparagraph (b) 3. j.~~, or any other rights, revenues, or
2661 other assets of the corporation pledged pursuant to any
2662 financing documents.

2663 3. Each such pledge or sale of, lien upon, and security
2664 interest in, including the priority of such pledge, lien, or
2665 security interest, any such assessments, policyholder surcharges
2666 or other surcharges, or other rights, revenues, or other assets
2667 which are collected, or levied and collected, after the
2668 commencement of and during the pendency of, or after, any such
2669 proceeding shall continue unaffected by such proceeding. As used
2670 in this subsection, the term "financing documents" means any
2671 agreement or agreements, instrument or instruments, or other
2672 document or documents now existing or hereafter created
2673 evidencing any bonds or other indebtedness of the corporation or
2674 pursuant to which any such bonds or other indebtedness has been
2675 or may be issued and pursuant to which any rights, revenues, or

2676 other assets of the corporation are pledged or sold to secure
2677 the repayment of such bonds or indebtedness, together with the
2678 payment of interest on such bonds or such indebtedness, or the
2679 payment of any other obligation or financial product, as defined
2680 in the plan of operation of the corporation related to such
2681 bonds or indebtedness.

2682 4. Any such pledge or sale of assessments, revenues,
2683 contract rights, or other rights or assets of the corporation
2684 shall constitute a lien and security interest, or sale, as the
2685 case may be, that is immediately effective and attaches to such
2686 assessments, revenues, or contract rights or other rights or
2687 assets, whether or not imposed or collected at the time the
2688 pledge or sale is made. Any such pledge or sale is effective,
2689 valid, binding, and enforceable against the corporation or other
2690 entity making such pledge or sale, and valid and binding against
2691 and superior to any competing claims or obligations owed to any
2692 other person or entity, including policyholders in this state,
2693 asserting rights in any such assessments, revenues, or contract
2694 rights or other rights or assets to the extent set forth in and
2695 in accordance with the terms of the pledge or sale contained in
2696 the applicable financing documents, whether or not any such
2697 person or entity has notice of such pledge or sale and without
2698 the need for any physical delivery, recordation, filing, or
2699 other action.

2700 5. As long as the corporation has any bonds outstanding,

2701 the corporation may not file a voluntary petition under chapter
 2702 9 of the federal Bankruptcy Code or such corresponding chapter
 2703 or sections as may be in effect, from time to time, and a public
 2704 officer or any organization, entity, or other person may not
 2705 authorize the corporation to be or become a debtor under chapter
 2706 9 of the federal Bankruptcy Code or such corresponding chapter
 2707 or sections as may be in effect, from time to time, during any
 2708 such period.

2709 6. If ordered by a court of competent jurisdiction, the
 2710 corporation may assume policies or otherwise provide coverage
 2711 for policyholders of an insurer placed in liquidation under
 2712 chapter 631, under such forms, rates, terms, and conditions as
 2713 the corporation deems appropriate, subject to approval by the
 2714 office.

2715 (x)1. The following records of the corporation are
 2716 confidential and exempt from the provisions of s. 119.07(1) and
 2717 s. 24(a), Art. I of the State Constitution:

2718 a. Underwriting files, except that a policyholder or an
 2719 applicant shall have access to his or her own underwriting
 2720 files. Confidential and exempt underwriting file records may
 2721 also be released to other governmental agencies upon written
 2722 request and demonstration of need; such records held by the
 2723 receiving agency remain confidential and exempt as provided
 2724 herein.

2725 b. Claims files, until termination of all litigation and

2726 settlement of all claims arising out of the same incident,
2727 although portions of the claims files may remain exempt, as
2728 otherwise provided by law. Confidential and exempt claims file
2729 records may be released to other governmental agencies upon
2730 written request and demonstration of need; such records held by
2731 the receiving agency remain confidential and exempt as provided
2732 herein.

2733 c. Records obtained or generated by an internal auditor
2734 pursuant to a routine audit, until the audit is completed, or if
2735 the audit is conducted as part of an investigation, until the
2736 investigation is closed or ceases to be active. An investigation
2737 is considered "active" while the investigation is being
2738 conducted with a reasonable, good faith belief that it could
2739 lead to the filing of administrative, civil, or criminal
2740 proceedings.

2741 d. Matters reasonably encompassed in privileged attorney-
2742 client communications.

2743 e. Proprietary information licensed to the corporation
2744 under contract and the contract provides for the confidentiality
2745 of such proprietary information.

2746 f. All information relating to the medical condition or
2747 medical status of a corporation employee which is not relevant
2748 to the employee's capacity to perform his or her duties, except
2749 as otherwise provided in this paragraph. Information that is
2750 exempt shall include, but is not limited to, information

2751 relating to workers' compensation, insurance benefits, and
2752 retirement or disability benefits.

2753 g. Upon an employee's entrance into the employee
2754 assistance program, a program to assist any employee who has a
2755 behavioral or medical disorder, substance abuse problem, or
2756 emotional difficulty that affects the employee's job
2757 performance, all records relative to that participation shall be
2758 confidential and exempt from the provisions of s. 119.07(1) and
2759 s. 24(a), Art. I of the State Constitution, except as otherwise
2760 provided in s. 112.0455(11).

2761 h. Information relating to negotiations for financing,
2762 reinsurance, depopulation, or contractual services, until the
2763 conclusion of the negotiations.

2764 i. Minutes of closed meetings regarding underwriting
2765 files, and minutes of closed meetings regarding an open claims
2766 file until termination of all litigation and settlement of all
2767 claims with regard to that claim, except that information
2768 otherwise confidential or exempt by law shall be redacted.

2769 2. If an authorized insurer is considering underwriting a
2770 risk insured by the corporation, relevant underwriting files and
2771 confidential claims files may be released to the insurer
2772 provided the insurer agrees in writing, notarized and under
2773 oath, to maintain the confidentiality of such files. If a file
2774 is transferred to an insurer, that file is no longer a public
2775 record because it is not held by an agency subject to the

2776 provisions of the public records law. Underwriting files and
 2777 confidential claims files may also be released to staff and the
 2778 board of governors of the market assistance plan established
 2779 pursuant to s. 627.3515, who must retain the confidentiality of
 2780 such files, except such files may be released to authorized
 2781 insurers that are considering assuming the risks to which the
 2782 files apply, provided the insurer agrees in writing, notarized
 2783 and under oath, to maintain the confidentiality of such files.
 2784 Finally, the corporation or the board or staff of the market
 2785 assistance plan may make the following information obtained from
 2786 underwriting files and confidential claims files available to an
 2787 entity that has obtained a permit to become an authorized
 2788 insurer, a reinsurer that may provide reinsurance under s.
 2789 624.610, a licensed reinsurance broker, a licensed rating
 2790 organization, a modeling company, a licensed surplus lines
 2791 agent, or a licensed general lines insurance agent: name,
 2792 address, and telephone number of the residential property owner
 2793 or insured; location of the risk; rating information; loss
 2794 history; and policy type. The receiving person must retain the
 2795 confidentiality of the information received and may use the
 2796 information only for the purposes of developing a take-out plan
 2797 or a rating plan to be submitted to the office for approval or
 2798 otherwise analyzing the underwriting of a risk or risks insured
 2799 by the corporation on behalf of the private insurance market. A
 2800 licensed surplus lines agent or a licensed general lines

2801 insurance agent may not use such information for the direct
2802 solicitation of policyholders.

2803 3. A policyholder who has filed suit against the
2804 corporation has the right to discover the contents of his or her
2805 own claims file to the same extent that discovery of such
2806 contents would be available from a private insurer in litigation
2807 as provided by the Florida Rules of Civil Procedure, the Florida
2808 Evidence Code, and other applicable law. Pursuant to subpoena, a
2809 third party has the right to discover the contents of an
2810 insured's or applicant's underwriting or claims file to the same
2811 extent that discovery of such contents would be available from a
2812 private insurer by subpoena as provided by the Florida Rules of
2813 Civil Procedure, the Florida Evidence Code, and other applicable
2814 law, and subject to any confidentiality protections requested by
2815 the corporation and agreed to by the seeking party or ordered by
2816 the court. The corporation may release confidential underwriting
2817 and claims file contents and information as it deems necessary
2818 and appropriate to underwrite or service insurance policies and
2819 claims, subject to any confidentiality protections deemed
2820 necessary and appropriate by the corporation.

2821 4. Portions of meetings of the corporation are exempt from
2822 the provisions of s. 286.011 and s. 24(b), Art. I of the State
2823 Constitution wherein confidential underwriting files or
2824 confidential open claims files are discussed. All portions of
2825 corporation meetings which are closed to the public shall be

2826 recorded by a court reporter. The court reporter shall record
2827 the times of commencement and termination of the meeting, all
2828 discussion and proceedings, the names of all persons present at
2829 any time, and the names of all persons speaking. No portion of
2830 any closed meeting shall be off the record. Subject to the
2831 provisions hereof and s. 119.07(1)(d)-(f), the court reporter's
2832 notes of any closed meeting shall be retained by the corporation
2833 for a minimum of 5 years. A copy of the transcript, less any
2834 exempt matters, of any closed meeting wherein claims are
2835 discussed shall become public as to individual claims after
2836 settlement of the claim.

2837 (y) It is the intent of the Legislature that the
2838 amendments to this subsection enacted in 2002 should, over time,
2839 reduce the probable maximum windstorm losses in the residual
2840 markets and the potential assessments to be levied on property
2841 insurers and policyholders statewide.

2842 (z) In enacting the provisions of this section, the
2843 Legislature recognizes that both the Florida Windstorm
2844 Underwriting Association and the Residential Property and
2845 Casualty Joint Underwriting Association have entered into
2846 financing arrangements that obligate each entity to service its
2847 debts and maintain the capacity to repay funds secured under
2848 these financing arrangements. It is the intent of the
2849 Legislature that nothing in this section be construed to
2850 compromise, diminish, or interfere with the rights of creditors

2851 | under such financing arrangements. It is further the intent of
2852 | the Legislature to preserve the obligations of the Florida
2853 | Windstorm Underwriting Association and Residential Property and
2854 | Casualty Joint Underwriting Association with regard to
2855 | outstanding financing arrangements, with such obligations
2856 | passing entirely and unchanged to the corporation and,
2857 | specifically, to the Citizens ~~applicable~~ account of the
2858 | corporation. So long as any bonds, notes, indebtedness, or other
2859 | financing obligations of the Florida Windstorm Underwriting
2860 | Association or the Residential Property and Casualty Joint
2861 | Underwriting Association are outstanding, under the terms of the
2862 | financing documents pertaining to them, the governing board of
2863 | the corporation shall have and shall exercise the authority to
2864 | levy, charge, collect, and receive all premiums, assessments,
2865 | surcharges, charges, revenues, and receipts that the
2866 | associations had authority to levy, charge, collect, or receive
2867 | under the provisions of subsection (2) and this subsection,
2868 | respectively, as they existed on January 1, 2002, to provide
2869 | moneys, without exercise of the authority provided by this
2870 | subsection, in at least the amounts, and by the times, as would
2871 | be provided under those former provisions of subsection (2) or
2872 | this subsection, respectively, so that the value, amount, and
2873 | collectability of any assets, revenues, or revenue source
2874 | pledged or committed to, or any lien thereon securing such
2875 | outstanding bonds, notes, indebtedness, or other financing

2876 obligations will not be diminished, impaired, or adversely
2877 affected by the amendments made by this act and to permit
2878 compliance with all provisions of financing documents pertaining
2879 to such bonds, notes, indebtedness, or other financing
2880 obligations, or the security or credit enhancement for them, and
2881 any reference in this subsection to bonds, notes, indebtedness,
2882 financing obligations, or similar obligations, of the
2883 corporation shall include like instruments or contracts of the
2884 Florida Windstorm Underwriting Association and the Residential
2885 Property and Casualty Joint Underwriting Association to the
2886 extent not inconsistent with the provisions of the financing
2887 documents pertaining to them.

2888 (aa) Except as otherwise provided in this paragraph, the
2889 corporation shall require the securing and maintaining of flood
2890 insurance as a condition of coverage of a personal lines
2891 residential risk. The insured or applicant must execute a form
2892 approved by the office affirming that flood insurance is not
2893 provided by the corporation and that if flood insurance is not
2894 secured by the applicant or insured from an insurer other than
2895 the corporation and in addition to coverage by the corporation,
2896 the risk will not be eligible for coverage by the corporation.
2897 The corporation may deny coverage of a personal lines
2898 residential risk to an applicant or insured who refuses to
2899 secure and maintain flood insurance. The requirement to purchase
2900 flood insurance shall be implemented as follows:

2901 1. Except as provided in subparagraphs 2. and 3., all
 2902 personal lines residential policyholders must have flood
 2903 coverage in place for policies effective on or after:

2904 a. January 1, 2024, for a structure that has a dwelling
 2905 replacement cost of \$600,000 or more.

2906 b. January 1, 2025, for a structure that has a dwelling
 2907 replacement cost of \$500,000 or more.

2908 c. January 1, 2026, for a structure that has a dwelling
 2909 replacement cost of \$400,000 or more.

2910 d. January 1, 2027, for all other personal lines
 2911 residential property insured by the corporation.

2912 2. All personal lines residential policyholders whose
 2913 property insured by the corporation is located within the
 2914 special flood hazard area defined by the Federal Emergency
 2915 Management Agency must have flood coverage in place:

2916 a. At the time of initial policy issuance for all new
 2917 personal lines residential policies issued by the corporation on
 2918 or after April 1, 2023.

2919 b. By the time of the policy renewal for all personal
 2920 lines residential policies renewing on or after July 1, 2023.

2921 3. Policyholders are not required to purchase flood
 2922 insurance as a condition for maintaining the following policies
 2923 issued by the corporation:

2924 a. Policies that do not provide coverage for the peril of
 2925 wind.

2926 b. Policies that provide coverage under a condominium unit
 2927 owners form.

2928
 2929 The flood insurance required under this paragraph must meet, at
 2930 a minimum, the coverage available from the National Flood
 2931 Insurance Program or the requirements of subparagraphs s.
 2932 627.715(1) (a)1., 2., and 3.

2933 (bb) A salaried employee of the corporation who performs
 2934 policy administration services subsequent to the effectuation of
 2935 a corporation policy is not required to be licensed as an agent
 2936 under the provisions of s. 626.112.

2937 (cc) There shall be no liability on the part of, and no
 2938 cause of action of any nature shall arise against, producing
 2939 agents of record of the corporation or employees of such agents
 2940 for insolvency of any take-out insurer.

2941 (dd) The assets of the corporation may be invested and
 2942 managed by the State Board of Administration.

2943 (ee) The office may establish a pilot program to offer
 2944 optional sinkhole coverage in one or more counties or other
 2945 territories of the corporation for the purpose of implementing
 2946 s. 627.706, as amended by s. 30, chapter 2007-1, Laws of
 2947 Florida. Under the pilot program, the corporation is not
 2948 required to issue a notice of nonrenewal to exclude sinkhole
 2949 coverage upon the renewal of existing policies, but may exclude
 2950 such coverage using a notice of coverage change.

2951 (ff) In establishing replacement costs for coverage on a
2952 dwelling insured by the corporation, the corporation must accept
2953 a valuation from any of the following sources and must use the
2954 lowest valuation as the insured value of the dwelling, excluding
2955 land value, provided the valuation was completed within the 12
2956 months before the application or renewal date of coverage:

2957 1. A replacement cost valuation software that is
2958 specifically designed for use in establishing insurance
2959 replacement costs and that includes an itemized calculation of
2960 the cost of reconstruction;

2961 2. A replacement cost valuation prepared by a certified or
2962 licensed real estate appraiser under part II of chapter 475 that
2963 is specifically formulated to establish insurance replacement
2964 cost, rather than market value, and which includes an itemized
2965 calculation of the cost of reconstruction; or

2966 3. A replacement cost valuation prepared by a general,
2967 building, or residential contractor licensed under s. 489.113,
2968 or a professional engineer licensed under s. 471.015, which
2969 includes an itemized calculation of the total price of
2970 reconstruction.

2971 (gg) The Office of Inspector General is established within
2972 the corporation to provide a central point for coordination of
2973 and responsibility for activities that promote accountability,
2974 integrity, and efficiency. The office shall be headed by an
2975 inspector general, which is a senior management position that

2976 involves planning, coordinating, and performing activities
2977 assigned to and assumed by the inspector general for the
2978 corporation.

2979 1. The inspector general shall be appointed by the
2980 Financial Services Commission and may only be removed from
2981 office by the commission. The inspector general shall be
2982 appointed without regard to political affiliation.

2983 a. At a minimum, the inspector general must possess a
2984 bachelor's degree from an accredited college or university and 8
2985 years of professional experience related to the duties of an
2986 inspector general as described in this paragraph, of which 5
2987 years must have been at a supervisory level.

2988 b. The inspector general shall report to, and be under the
2989 supervision of, the chair of the board of governors. The
2990 executive director or corporation staff may not prevent or
2991 prohibit the inspector general from initiating, carrying out, or
2992 completing any audit, review, evaluation, study, or
2993 investigation.

2994 2. The inspector general shall initiate, direct,
2995 coordinate, participate in, and perform audits, reviews,
2996 evaluations, studies, and investigations designed to assess
2997 management practices; compliance with laws, rules, and policies;
2998 and program effectiveness and efficiency. This includes:

2999 a. Conducting internal examinations; investigating
3000 allegations of fraud, waste, abuse, malfeasance, mismanagement,

3001 employee misconduct, or violations of corporation policies; and
 3002 conducting any other investigations as directed by the Financial
 3003 Services Commission or as independently determined.

3004 b. Evaluating and recommending actions regarding security,
 3005 the ethical behavior of personnel and vendors, and compliance
 3006 with rules, laws, policies, and personnel matters; and rendering
 3007 ethics opinions.

3008 c. Evaluating personnel and administrative policy
 3009 compliance, management and operational matters, and human
 3010 resources-related matters.

3011 d. Evaluating the application of a corporation code of
 3012 ethics, providing reviews and recommendations on the design and
 3013 content of ethics-related policy training courses, educating
 3014 employees on the code and on appropriate conduct, and checking
 3015 for compliance.

3016 e. Evaluating the activities of the senior management team
 3017 and management's compliance with recommended solutions.

3018 f. Cooperating and coordinating activities with the chief
 3019 of internal audit.

3020 g. Maintaining records of investigations and discipline in
 3021 accordance with established policies, or as otherwise required.

3022 h. Supervising and directing the tasks and assignments of
 3023 the staff assigned to assist with the inspector general's
 3024 projects, including regular review and feedback regarding work
 3025 in progress and providing recommendations regarding relevant

3026 training and staff development activities.

3027 i. Directing, planning, preparing, and presenting interim

3028 and final reports and oral briefings which communicate the

3029 results of studies, reviews, and investigations.

3030 j. Providing the executive director with independent and

3031 objective assessments of programs and activities.

3032 k. Completing special projects, assignments, and other

3033 duties as requested by the Financial Services Commission.

3034 l. Reporting expeditiously to the Department of Law

3035 Enforcement or other law enforcement agencies, as appropriate,

3036 whenever the inspector general has reasonable grounds to believe

3037 there has been a violation of criminal law.

3038 (hh) The corporation shall prepare a report for each

3039 calendar year outlining both the statewide average and county-

3040 specific details of the loss ratio attributable to losses that

3041 are not catastrophic losses for residential coverage provided by

3042 the corporation, which information must be presented to the

3043 office and available for public inspection on the Internet

3044 website of the corporation by March 1 of the following calendar

3045 year.

3046 (ii) The corporation shall revise the programs adopted

3047 pursuant to sub-subparagraph (q)3.a. for personal lines

3048 residential policies to maximize policyholder options and

3049 encourage increased participation by insurers and agents. After

3050 January 1, 2017, a policy may not be taken out of the

3051 corporation unless the provisions of this paragraph are met.

3052 1. The corporation must publish a periodic schedule of
3053 cycles during which an insurer may identify, and notify the
3054 corporation of, policies that the insurer is requesting to take
3055 out. A request must include a description of the coverage
3056 offered and an estimated premium and must be submitted to the
3057 corporation in a form and manner prescribed by the corporation.

3058 2. The corporation must maintain and make available to the
3059 agent of record a consolidated list of all insurers requesting
3060 to take out a policy. The list must include a description of the
3061 coverage offered and the estimated premium for each take-out
3062 request.

3063 3. If a policyholder receives a take-out offer from an
3064 authorized insurer, the risk is no longer eligible for coverage
3065 with the corporation unless the premium for coverage from the
3066 authorized insurer is more than 20 percent greater than the
3067 renewal premium for comparable coverage from the corporation
3068 pursuant to sub-subparagraph (c)5.c. This subparagraph applies
3069 to take-out offers that are part of an application to
3070 participate in depopulation submitted to the office on or after
3071 January 1, 2023. However, notwithstanding any other provision of
3072 law, this sub-subparagraph does not apply to a policy that does
3073 not cover a primary residence.

3074 4. The corporation must provide written notice to the
3075 policyholder and the agent of record regarding all insurers

3076 requesting to take out the policy. The notice must be in a
 3077 format prescribed by the corporation and include, for each take-
 3078 out offer:

- 3079 a. The amount of the estimated premium;
- 3080 b. A description of the coverage; and
- 3081 c. A comparison of the estimated premium and coverage
 3082 offered by the insurer to the estimated premium and coverage
 3083 provided by the corporation.

3084 (jj) The corporation's budget allocations for the
 3085 compensation of all corporation employees and any proposed raise
 3086 for an individual employee exceeding 10 percent of that
 3087 employee's current salary must be approved by the board of
 3088 governors. The corporation must have an overall employee
 3089 compensation plan approved by the board of governors.

3090 (kk) A corporation policyholder making a claim for water
 3091 damage against the corporation has the burden of proving that
 3092 the damage was not caused by flooding.

3093 (ll) The corporation may share its claims data with the
 3094 National Insurance Crime Bureau, provided that the National
 3095 Insurance Crime Bureau agrees to maintain the confidentiality of
 3096 such documents as otherwise provided for in paragraph (x).

3097 (mm)~~(ll)~~1. In addition to any other method of alternative
 3098 dispute resolution authorized by state law, the corporation may
 3099 adopt policy forms that provide for the resolution of disputes
 3100 regarding its claim determinations, including disputes regarding

3101 coverage for, or the scope and value of, a claim, in a
 3102 proceeding before the Division of Administrative Hearings. Any
 3103 such policies are not subject to s. 627.70154. All proceedings
 3104 in the Division of Administrative Hearings pursuant to such
 3105 policies are subject to ss. 57.105 and 768.79 as if filed in the
 3106 courts of this state and are not considered chapter 120
 3107 administrative proceedings. Rule 1.442, Florida Rules of Civil
 3108 Procedure, applies to any offer served pursuant to s. 768.79,
 3109 except that, notwithstanding any provision in Rule 1.442,
 3110 Florida Rules of Civil Procedure, to the contrary, an offer
 3111 shall not be served earlier than 10 days after filing the
 3112 request for hearing with the Division of Administrative Hearings
 3113 and shall not be served later than 10 days before the date set
 3114 for the final hearing. The administrative law judge in such
 3115 proceedings shall award attorney fees and other relief pursuant
 3116 to ss. 57.105 and 768.79. The corporation may not seek, and the
 3117 office may not approve, a maximum hourly rate for attorney fees.

3118 2. The corporation may contract with the division to
 3119 conduct proceedings to resolve disputes regarding its claim
 3120 determinations as may be provided for in the applicable policies
 3121 of insurance.

3122 (nn) ~~(mm)~~ The corporation may not determine that a risk is
 3123 ineligible for coverage with the corporation solely because such
 3124 risk has unrepaired damage caused by a covered loss that is the
 3125 subject of a claim that has been filed with the Florida

3126 Insurance Guaranty Association. This paragraph applies to a risk
 3127 until the earlier of 24 months after the date the Florida
 3128 Insurance Guaranty Association began servicing such claim or the
 3129 Florida Insurance Guaranty Association closes the claim.

3130 (oo) In a county that has not been determined to lack a
 3131 reasonable degree of competition at the county level pursuant to
 3132 sub-subparagraph (a)3.a., the office may evaluate whether there
 3133 is a reasonable degree of competition within an individual zip
 3134 code in the county. If the office determines that such zip code
 3135 lacks a reasonable degree of competition, structures that have a
 3136 dwelling replacement costs between \$700,000 and \$1 million and
 3137 single condominium units that have a combined dwelling and
 3138 contents replacement cost between \$700,000 and \$1 million are
 3139 eligible for coverage by the corporation. However, the rate
 3140 charged for policies issued on these risks is not subject to
 3141 subparagraph (n)5.

3142 (7) PATENTS, COPYRIGHTS, OR TRADEMARKS.—Notwithstanding
 3143 any other provision of law to the contrary, the corporation may,
 3144 in its own name:

3145 (a) Perform all things necessary to secure letters of
 3146 patent, copyrights, or trademarks on any work products and
 3147 enforce its rights therein.

3148 (b) License, lease, assign, or otherwise give written
 3149 consent to any person, firm, or other corporation for the
 3150 manufacture or use of patents, copyrights, or trademarks on any

3151 work products and rights therein on a royalty basis or for such
 3152 other consideration as the corporation deems proper.

3153 (c) Take any action necessary, including legal action, to
 3154 protect the manufacture or use of patents, copyrights, or
 3155 trademarks on any work products and rights therein against
 3156 improper or unlawful use or infringement.

3157 (d) Enforce the collection of any sums due the corporation
 3158 for the manufacture or use of patents, copyrights, or trademarks
 3159 on any work products and rights therein by any other party.

3160 (e) Sell any of the manufacture or use of patents,
 3161 copyrights, or trademarks on any work products and rights
 3162 therein and execute all instruments necessary to consummate any
 3163 such sale.

3164 (f) Do all other acts necessary and proper for the
 3165 execution of powers and duties conferred upon the corporation in
 3166 order to administer this subsection.

3167 Section 2. Effective upon becoming a law, paragraph (aa)
 3168 of subsection (6) of section 627.351, Florida Statutes, is
 3169 amended to read:

3170 627.351 Insurance risk apportionment plans.—

3171 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

3172 (aa) Except as otherwise provided in this paragraph, the
 3173 corporation shall require the securing and maintaining of flood
 3174 insurance as a condition of coverage of a personal lines
 3175 residential risk. The insured or applicant must execute a form

3176 approved by the office affirming that flood insurance is not
 3177 provided by the corporation and that if flood insurance is not
 3178 secured by the applicant or insured from an insurer other than
 3179 the corporation and in addition to coverage by the corporation,
 3180 the risk will not be eligible for coverage by the corporation.
 3181 The corporation may deny coverage of a personal lines
 3182 residential risk to an applicant or insured who refuses to
 3183 secure and maintain flood insurance. The requirement to purchase
 3184 flood insurance shall be implemented as follows:

3185 1. Except as provided in subparagraphs 2. and 3., all
 3186 personal lines residential policyholders must have flood
 3187 coverage in place for policies effective on or after:

3188 a. January 1, 2024, for a structure that has a dwelling
 3189 replacement cost of \$600,000 or more.

3190 b. January 1, 2025, for a structure that has a dwelling
 3191 replacement cost of \$500,000 or more.

3192 c. January 1, 2026, for a structure that has a dwelling
 3193 replacement cost of \$400,000 or more.

3194 d. January 1, 2027, for all other personal lines
 3195 residential property insured by the corporation.

3196 2. All personal lines residential policyholders whose
 3197 property insured by the corporation is located within the
 3198 special flood hazard area defined by the Federal Emergency
 3199 Management Agency must have flood coverage in place:

3200 a. At the time of initial policy issuance for all new

3201 personal lines residential policies issued by the corporation on
 3202 or after April 1, 2023.

3203 b. By the time of the policy renewal for all personal
 3204 lines residential policies renewing on or after July 1, 2023.

3205 3. Policyholders are not required to purchase flood
 3206 insurance as a condition for maintaining the following policies
 3207 issued by the corporation:

3208 a. Policies that do not provide coverage for the peril of
 3209 wind.

3210 b. Policies that provide coverage under a condominium unit
 3211 owners form.

3212
 3213 The flood insurance required under this paragraph must meet, at
 3214 a minimum, the dwelling coverage available from the National
 3215 Flood Insurance Program or the requirements of subparagraphs s.
 3216 627.715(1)(a)1., 2., and 3.

3217 Section 3. Subsections (3) and (5) and paragraphs (d),
 3218 (e), and (f) of subsection (6) of section 627.3511, Florida
 3219 Statutes, are amended to read:

3220 627.3511 Depopulation of Citizens Property Insurance
 3221 Corporation.—

3222 (3) EXEMPTION FROM DEFICIT ASSESSMENTS.—

3223 ~~(a) The calculation of an insurer's assessment liability~~
 3224 ~~under s. 627.351(6)(b)3.a. shall, for an insurer that in any~~
 3225 ~~calendar year removes 50,000 or more risks from the Citizens~~

3226 ~~Property Insurance Corporation, either by issuance of a policy~~
3227 ~~upon expiration or cancellation of the corporation policy or by~~
3228 ~~assumption of the corporation's obligations with respect to in-~~
3229 ~~force policies, exclude such removed policies for the succeeding~~
3230 ~~3 years, as follows:~~

3231 ~~1. In the first year following removal of the risks, the~~
3232 ~~risks are excluded from the calculation to the extent of 100~~
3233 ~~percent.~~

3234 ~~2. In the second year following removal of the risks, the~~
3235 ~~risks are excluded from the calculation to the extent of 75~~
3236 ~~percent.~~

3237 ~~3. In the third year following removal of the risks, the~~
3238 ~~risks are excluded from the calculation to the extent of 50~~
3239 ~~percent.~~

3240
3241 ~~If the removal of risks is accomplished through assumption of~~
3242 ~~obligations with respect to in-force policies, the corporation~~
3243 ~~shall pay to the assuming insurer all unearned premium with~~
3244 ~~respect to such policies less any policy acquisition costs~~
3245 ~~agreed to by the corporation and assuming insurer. The term~~
3246 ~~"policy acquisition costs" is defined as costs of issuance of~~
3247 ~~the policy by the corporation which includes agent commissions,~~
3248 ~~servicing company fees, and premium tax. This paragraph does not~~
3249 ~~apply to an insurer that, at any time within 5 years before~~
3250 ~~removing the risks, had a market share in excess of 0.1 percent.~~

3251 ~~of the statewide aggregate gross direct written premium for any~~
3252 ~~line of property insurance, or to an affiliate of such an~~
3253 ~~insurer. This paragraph does not apply unless either at least 40~~
3254 ~~percent of the risks removed from the corporation are located in~~
3255 ~~Miami-Dade, Broward, and Palm Beach Counties, or at least 30~~
3256 ~~percent of the risks removed from the corporation are located in~~
3257 ~~such counties and an additional 50 percent of the risks removed~~
3258 ~~from the corporation are located in other coastal counties.~~

3259 ~~(b) An insurer that first wrote personal lines residential~~
3260 ~~property coverage in this state on or after July 1, 1994, is~~
3261 ~~exempt from regular deficit assessments imposed pursuant to s.~~
3262 ~~627.351(6)(b)3.a., but not emergency assessments collected from~~
3263 ~~policyholders pursuant to s. 627.351(6)(b)3.e., of the Citizens~~
3264 ~~Property Insurance Corporation until the earlier of the~~
3265 ~~following:~~

3266 ~~1. The end of the calendar year in which it first wrote~~
3267 ~~0.5 percent or more of the statewide aggregate direct written~~
3268 ~~premium for any line of residential property coverage; or~~

3269 ~~2. December 31, 1997, or December 31 of the third year in~~
3270 ~~which it wrote such coverage in this state, whichever is later.~~

3271 ~~(c) Other than an insurer that is exempt under paragraph~~
3272 ~~(b), an insurer that in any calendar year increases its total~~
3273 ~~structure exposure subject to wind coverage by 25 percent or~~
3274 ~~more over its exposure for the preceding calendar year is, with~~
3275 ~~respect to that year, exempt from deficit assessments imposed~~

3276 ~~pursuant to s. 627.351(6)(b)3.a., but not emergency assessments~~
3277 ~~collected from policyholders pursuant to s. 627.351(6)(b)3.e.,~~
3278 ~~of the Citizens Property Insurance Corporation attributable to~~
3279 ~~such increase in exposure.~~

3280 ~~(d)~~ Any exemption or credit from regular assessments
3281 authorized by this section shall last no longer than 3 years
3282 following the cancellation or expiration of the policy by the
3283 corporation. With the approval of the office, the board may
3284 extend such credits for an additional year if the insurer
3285 guarantees an additional year of renewability for all policies
3286 removed from the corporation, or for 2 additional years if the
3287 insurer guarantees 2 additional years of renewability for all
3288 policies so removed.

3289 (5) APPLICABILITY.—

3290 ~~(a)~~ The take-out bonus provided by subsection (2) applies
3291 ~~and the exemption from assessment provided by paragraph (3)(a)~~
3292 ~~apply~~ only if the corporation policy is replaced by a standard
3293 policy including wind coverage or, if consistent with the
3294 insurer's underwriting rules filed with the office, a basic
3295 policy including wind coverage; however, for risks located in
3296 areas where coverage through the coastal account of the
3297 corporation is available, the replacement policy need not
3298 provide wind coverage. The insurer must renew the replacement
3299 policy at approved rates on substantially similar terms for four
3300 additional 1-year terms, unless canceled or not renewed by the

3301 policyholder. If an insurer assumes the corporation's
3302 obligations for a policy, it must issue a replacement policy for
3303 a 1-year term upon expiration of the corporation policy and must
3304 renew the replacement policy at approved rates on substantially
3305 similar terms for four additional 1-year terms, unless canceled
3306 or not renewed by the policyholder. For each replacement policy
3307 canceled or nonrenewed by the insurer for any reason during the
3308 5-year coverage period, the insurer must remove from the
3309 corporation one additional policy covering a risk similar to the
3310 risk covered by the canceled or nonrenewed policy. In addition,
3311 the corporation must place the bonus moneys in escrow for 5
3312 years; such moneys may be released from escrow only to pay
3313 claims. If the policy is canceled or nonrenewed before the end
3314 of the 5-year period, the amount of the take-out bonus must be
3315 prorated for the time period the policy was insured. A take-out
3316 bonus provided by subsection (2) or subsection (6) is not
3317 premium income for purposes of taxes and assessments under the
3318 Florida Insurance Code and remains the property of the
3319 corporation, subject to the prior security interest of the
3320 insurer under the escrow agreement until it is released from
3321 escrow; after it is released from escrow it is considered an
3322 asset of the insurer and credited to the insurer's capital and
3323 surplus.

3324 ~~(b) It is the intent of the Legislature that an insurer~~
3325 ~~eligible for the exemption under paragraph (3)(a) establish a~~

3326 ~~preference in appointment of agents for those agents who lose a~~
3327 ~~substantial amount of business as a result of risks being~~
3328 ~~removed from the corporation.~~

3329 (6) COMMERCIAL RESIDENTIAL TAKE-OUT PLANS.—

3330 ~~(d) The calculation of an insurer's regular assessment~~
3331 ~~liability under s. 627.351(6)(b)3.a., but not emergency~~
3332 ~~assessments collected from policyholders pursuant to s.~~
3333 ~~627.351(6)(b)3.c., shall, with respect to commercial residential~~
3334 ~~policies removed from the corporation under an approved take-out~~
3335 ~~plan, exclude such removed policies for the succeeding 3 years,~~
3336 ~~as follows:~~

3337 1. ~~In the first year following removal of the policies,~~
3338 ~~the policies are excluded from the calculation to the extent of~~
3339 ~~100 percent.~~

3340 2. ~~In the second year following removal of the policies,~~
3341 ~~the policies are excluded from the calculation to the extent of~~
3342 ~~75 percent.~~

3343 3. ~~In the third year following removal of the policies,~~
3344 ~~the policies are excluded from the calculation to the extent of~~
3345 ~~50 percent.~~

3346 ~~(e) An insurer that first wrote commercial residential~~
3347 ~~property coverage in this state on or after June 1, 1996, is~~
3348 ~~exempt from regular assessments under s. 627.351(6)(b)3.a., but~~
3349 ~~not emergency assessments collected from policyholders pursuant~~
3350 ~~to s. 627.351(6)(b)3.c., with respect to commercial residential~~

3351 ~~policies until the earlier of:~~

3352 ~~1. The end of the calendar year in which such insurer~~
 3353 ~~first wrote 0.5 percent or more of the statewide aggregate~~
 3354 ~~direct written premium for commercial residential property~~
 3355 ~~coverage; or~~

3356 ~~2. December 31 of the third year in which such insurer~~
 3357 ~~wrote commercial residential property coverage in this state.~~

3358 ~~(f) An insurer that is not otherwise exempt from regular~~
 3359 ~~assessments under s. 627.351(6)(b)3.a. with respect to~~
 3360 ~~commercial residential policies is, for any calendar year in~~
 3361 ~~which such insurer increased its total commercial residential~~
 3362 ~~hurricane exposure by 25 percent or more over its exposure for~~
 3363 ~~the preceding calendar year, exempt from regular assessments~~
 3364 ~~under s. 627.351(6)(b)3.a., but not emergency assessments~~
 3365 ~~collected from policyholders pursuant to s. 627.351(6)(b)3.e.,~~
 3366 ~~attributable to such increased exposure.~~

3367 Section 4. Subsections (5), (6), and (7) of section
 3368 627.3518, Florida Statutes, are amended to read:

3369 627.3518 Citizens Property Insurance Corporation
 3370 policyholder eligibility clearinghouse program.—The purpose of
 3371 this section is to provide a framework for the corporation to
 3372 implement a clearinghouse program by January 1, 2014.

3373 (5) Notwithstanding s. 627.3517, any applicant for new
 3374 coverage from the corporation is not eligible for coverage from
 3375 the corporation if provided an offer of coverage from an

3376 authorized insurer through the program at a premium that is at
3377 or below the eligibility threshold for applicants for new
3378 coverage established in s. 627.351(6)(c)5.a. Whenever an offer
3379 of coverage for a personal lines risk is received for a
3380 policyholder of the corporation at renewal from an authorized
3381 insurer through the program which is at or below the eligibility
3382 threshold for policyholders of the corporation established in s.
3383 627.351(6)(c)5.a., the risk is not eligible for coverage with
3384 the corporation. In the event an offer of coverage for a new
3385 applicant is received from an authorized insurer through the
3386 program, and the premium offered exceeds the eligibility
3387 threshold for applicants for new coverage established in s.
3388 627.351(6)(c)5.a., the applicant or insured may elect to accept
3389 such coverage, or may elect to accept or continue coverage with
3390 the corporation. In the event an offer of coverage for a
3391 personal lines risk is received from an authorized insurer at
3392 renewal through the program, and the premium offered exceeds the
3393 eligibility threshold for policyholders of the corporation
3394 established in s. 627.351(6)(c)5.a., the insured may elect to
3395 accept such coverage, or may elect to accept or continue
3396 coverage with the corporation. Section 627.351(6)(c)5.a.(I) does
3397 not apply to an offer of coverage from an authorized insurer
3398 obtained through the program. However, notwithstanding any other
3399 provision of law, this subsection does not apply to a policy
3400 that does not cover a primary residence, as defined in s.

3401 | 627.351 (6) (c) 2.a.

3402 | (6) Independent insurance agents submitting new
3403 | applications for coverage or that are the agent of record on a
3404 | renewal policy submitted to the program:

3405 | (a) Are granted and must maintain ownership and the
3406 | exclusive use of expirations, records, or other written or
3407 | electronic information directly related to such applications or
3408 | renewals written through the corporation or through an insurer
3409 | participating in the program, notwithstanding s.

3410 | 627.351 (6) (c) 5.a. (I) (B) and (II) (B). Such ownership is granted
3411 | for as long as the insured remains with the agency or until sold
3412 | or surrendered in writing by the agent. Contracts with the
3413 | corporation or required by the corporation must not amend,
3414 | modify, interfere with, or limit such rights of ownership. Such
3415 | expirations, records, or other written or electronic information
3416 | may be used to review an application, issue a policy, or for any
3417 | other purpose necessary for placing such business through the
3418 | program.

3419 | (b) May not be required to be appointed by any insurer
3420 | participating in the program for policies written solely through
3421 | the program, notwithstanding the provisions of s. 626.112.

3422 | (c) May accept an appointment from any insurer
3423 | participating in the program.

3424 | (d) May enter into either a standard or limited agency
3425 | agreement with the insurer, at the insurer's option.

3426
3427 Applicants ineligible for coverage in accordance with subsection
3428 (5) remain ineligible if their independent agent is unwilling or
3429 unable for any reason, including the failure of such agent to be
3430 licensed as a surplus lines agent, to enter into a standard or
3431 limited agency agreement with an insurer participating in the
3432 program.

3433 (7) Exclusive agents submitting new applications for
3434 coverage or that are the agent of record on a renewal policy
3435 submitted to the program:

3436 (a) Must maintain ownership and the exclusive use of
3437 expirations, records, or other written or electronic information
3438 directly related to such applications or renewals written
3439 through the corporation or through an insurer participating in
3440 the program, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and
3441 (II)(B). Contracts with the corporation or required by the
3442 corporation must not amend, modify, interfere with, or limit
3443 such rights of ownership. Such expirations, records, or other
3444 written or electronic information may be used to review an
3445 application, issue a policy, or for any other purpose necessary
3446 for placing such business through the program.

3447 (b) May not be required to be appointed by any insurer
3448 participating in the program for policies written solely through
3449 the program, notwithstanding the provisions of s. 626.112.

3450 (c) Must only facilitate the placement of an offer of

3451 coverage from an insurer whose limited servicing agreement is
3452 approved by that exclusive agent's exclusive insurer.

3453 (d) May enter into a limited servicing agreement with the
3454 insurer making an offer of coverage, and only after the
3455 exclusive agent's insurer has approved the limited servicing
3456 agreement terms. The exclusive agent's insurer must approve a
3457 limited service agreement for the program for any insurer for
3458 which it has approved a service agreement for other purposes.

3459
3460 Applicants ineligible for coverage in accordance with subsection
3461 (5) remain ineligible if their exclusive agent is unwilling or
3462 unable for any reason, including the failure of such agent to be
3463 licensed as a surplus lines agent, to enter into a standard or
3464 limited agency agreement with an insurer making an offer of
3465 coverage to that applicant. This subsection does not apply to an
3466 authorized insurer that is an eligible surplus lines insurer.

3467 Section 5. Except as otherwise expressly provided in this
3468 act and except for this section, which shall take effect upon
3469 this act becoming a law, this act shall take effect July 1,
3470 2024.