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

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26 assessments and surcharges; defining the terms  
27 "approved surplus lines insurer" and "primary  
28 residence"; providing applicability of certain  
29 provisions relating to personal lines residential  
30 risks coverage by the corporation; providing that  
31 certain personal lines residential risks are not  
32 eligible for any policy issued by the corporation;  
33 providing an exception; providing that certain  
34 personal lines residential risks are not eligible for  
35 coverage with the corporation under certain  
36 circumstances; providing an exception; providing that  
37 certain risks are eligible for certain standard  
38 policies; providing that certain risks are eligible  
39 for certain basic policies; requiring that the  
40 determination of the type of policy be provided on the  
41 basis of certain standards and practices; providing  
42 that certain policyholders do not remain eligible for  
43 coverage from the corporation; requiring the insurer  
44 to pay the producing agent of record a certain amount  
45 or make certain offers under certain circumstances;  
46 providing that the producing agent of record is  
47 entitled to retain certain commission on the policy;  
48 requiring the insurer to pay the producing agent of  
49 record a certain amount or make certain offers under  
50 certain circumstances; revising the corporation's plan

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51 of operation; revising the required statements from  
 52 applicants for coverage; revising the duties of the  
 53 executive director of the corporation; authorizing the  
 54 executive director to assign and appoint designees;  
 55 deleting an applicability provision relating to bond  
 56 requirements; deleting provisions relating to certain  
 57 insurer assessment deferments; deleting provisions  
 58 relating to the intangibles of and coverage by the  
 59 Florida Windstorm Underwriting Association and the  
 60 corporation coastal account; authorizing the  
 61 corporation and certain persons to make specified  
 62 information obtained from underwriting files and  
 63 confidential claims files available to licensed  
 64 surplus lines agents; prohibiting such agents from  
 65 using such information for specified purposes;  
 66 providing applicability of provisions relating to  
 67 take-out offers that are part of applications to  
 68 participate in depopulation; authorizing the  
 69 corporation to share its claims data with a specified  
 70 entity; authorizing the corporation to take certain  
 71 actions relating to trademarks, copyrights, or  
 72 patents; amending s. 627.3511, F.S.; conforming  
 73 provisions to changes made by the act; conforming  
 74 cross-references; amending s. 627.3518, F.S.; revising  
 75 eligibility requirements for policyholders at renewal

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76 and for applicants for new coverage; defining the term  
 77 "primary residence"; providing effective dates.  
 78

79 Be It Enacted by the Legislature of the State of Florida:  
 80

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

84 627.351 Insurance risk apportionment plans.—

85 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

86 (aa) Except as otherwise provided in this paragraph, the  
 87 corporation shall require the securing and maintaining of flood  
 88 insurance as a condition of coverage of a personal lines  
 89 residential risk. The insured or applicant must execute a form  
 90 approved by the office affirming that flood insurance is not  
 91 provided by the corporation and that if flood insurance is not  
 92 secured by the applicant or insured from an insurer other than  
 93 the corporation and in addition to coverage by the corporation,  
 94 the risk will not be eligible for coverage by the corporation.  
 95 The corporation may deny coverage of a personal lines  
 96 residential risk to an applicant or insured who refuses to  
 97 secure and maintain flood insurance. The requirement to purchase  
 98 flood insurance shall be implemented as follows:

99 1. Except as provided in subparagraphs 2. and 3., all  
 100 personal lines residential policyholders must have flood

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101 coverage in place for policies effective on or after:  
 102       a. January 1, 2024, for a structure that has a dwelling  
 103 replacement cost of \$600,000 or more.  
 104       b. January 1, 2025, for a structure that has a dwelling  
 105 replacement cost of \$500,000 or more.  
 106       c. January 1, 2026, for a structure that has a dwelling  
 107 replacement cost of \$400,000 or more.  
 108       d. January 1, 2027, for all other personal lines  
 109 residential property insured by the corporation.  
 110       2. All personal lines residential policyholders whose  
 111 property insured by the corporation is located within the  
 112 special flood hazard area defined by the Federal Emergency  
 113 Management Agency must have flood coverage in place:  
 114       a. At the time of initial policy issuance for all new  
 115 personal lines residential policies issued by the corporation on  
 116 or after April 1, 2023.  
 117       b. By the time of the policy renewal for all personal  
 118 lines residential policies renewing on or after July 1, 2023.  
 119       3. Policyholders are not required to purchase flood  
 120 insurance as a condition for maintaining the following policies  
 121 issued by the corporation:  
 122       a. Policies that do not provide coverage for the peril of  
 123 wind.  
 124       b. Policies that provide coverage under a condominium unit  
 125 owners form.

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126  
 127 The flood insurance required under this paragraph must meet, at  
 128 a minimum, the dwelling coverage available from the National  
 129 Flood Insurance Program or the requirements of ~~subparagraphs~~ s.  
 130 627.715(1)(a)1., 2., and 3.

131 Section 2. Present subsection (7) of section 627.351,  
 132 Florida Statutes, is redesignated as subsection (8), a new  
 133 subsection (7) is added to that section, paragraph (nn) is added  
 134 to subsection (6) of that section, and paragraph (b) of  
 135 subsection (2) and paragraphs (a), (b), (c), (e), (o), (p), (q),  
 136 (v), (w), (x), (z), and (ii) of subsection (6) of that section  
 137 are amended, to read:

138 627.351 Insurance risk apportionment plans.—

139 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

140 (b) The department shall require all insurers holding a  
 141 certificate of authority to transact property insurance on a  
 142 direct basis in this state, other than joint underwriting  
 143 associations and other entities formed pursuant to this section,  
 144 to provide windstorm coverage to applicants from areas  
 145 determined to be eligible pursuant to paragraph (c) who in good  
 146 faith are entitled to, but are unable to procure, such coverage  
 147 through ordinary means; or it shall adopt a reasonable plan or  
 148 plans for the equitable apportionment or sharing among such  
 149 insurers of windstorm coverage, which may include formation of  
 150 an association for this purpose. As used in this subsection, the

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151 term "property insurance" means insurance on real or personal  
 152 property, as defined in s. 624.604, including insurance for  
 153 fire, industrial fire, allied lines, farmowners multiperil,  
 154 homeowners multiperil, commercial multiperil, and mobile homes,  
 155 and including liability coverages on all such insurance, but  
 156 excluding inland marine as defined in s. 624.607(3) and  
 157 excluding vehicle insurance as defined in s. 624.605(1)(a) other  
 158 than insurance on mobile homes used as permanent dwellings. The  
 159 department shall adopt rules that provide a formula for the  
 160 recovery and repayment of any deferred assessments.

161 1. For the purpose of this section, properties eligible  
 162 for such windstorm coverage are defined as dwellings, buildings,  
 163 and other structures, including mobile homes which are used as  
 164 dwellings and which are tied down in compliance with mobile home  
 165 tie-down requirements prescribed by the Department of Highway  
 166 Safety and Motor Vehicles pursuant to s. 320.8325, and the  
 167 contents of all such properties. An applicant or policyholder is  
 168 eligible for coverage only if an offer of coverage cannot be  
 169 obtained by or for the applicant or policyholder from an  
 170 admitted insurer at approved rates.

171 2.a.(I) All insurers required to be members of such  
 172 association shall participate in its writings, expenses, and  
 173 losses. Surplus of the association shall be retained for the  
 174 payment of claims and shall not be distributed to the member  
 175 insurers. Such participation by member insurers shall be in the

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176 proportion that the net direct premiums of each member insurer  
177 written for property insurance in this state during the  
178 preceding calendar year bear to the aggregate net direct  
179 premiums for property insurance of all member insurers, as  
180 reduced by any credits for voluntary writings, in this state  
181 during the preceding calendar year. For the purposes of this  
182 subsection, the term "net direct premiums" means direct written  
183 premiums for property insurance, reduced by premium for  
184 liability coverage and for the following if included in allied  
185 lines: rain and hail on growing crops; livestock; association  
186 direct premiums booked; National Flood Insurance Program direct  
187 premiums; and similar deductions specifically authorized by the  
188 plan of operation and approved by the department. A member's  
189 participation shall begin on the first day of the calendar year  
190 following the year in which it is issued a certificate of  
191 authority to transact property insurance in the state and shall  
192 terminate 1 year after the end of the calendar year during which  
193 it no longer holds a certificate of authority to transact  
194 property insurance in the state. The commissioner, after review  
195 of annual statements, other reports, and any other statistics  
196 that the commissioner deems necessary, shall certify to the  
197 association the aggregate direct premiums written for property  
198 insurance in this state by all member insurers.

199 (II) Effective July 1, 2002, the association shall operate  
200 subject to the supervision and approval of a board of governors



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201 | who are the same individuals that have been appointed by the  
 202 | Treasurer to serve on the board of governors of the Citizens  
 203 | Property Insurance Corporation.

204 |       (III) The plan of operation shall provide a formula  
 205 | whereby a company voluntarily providing windstorm coverage in  
 206 | affected areas will be relieved wholly or partially from  
 207 | apportionment of a regular assessment pursuant to sub-sub-  
 208 | subparagraph d.(I) or sub-sub-subparagraph d.(II).

209 |       (IV) A company which is a member of a group of companies  
 210 | under common management may elect to have its credits applied on  
 211 | a group basis, and any company or group may elect to have its  
 212 | credits applied to any other company or group.

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

216 |       (VI) The plan of operation may also provide for the award  
 217 | of credits, for a period not to exceed 3 years, from a regular  
 218 | assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-  
 219 | subparagraph d.(II) as an incentive for taking policies out of  
 220 | the Residential Property and Casualty Joint Underwriting  
 221 | Association. In order to qualify for the exemption under this  
 222 | sub-sub-subparagraph, the take-out plan must provide that at  
 223 | least 40 percent of the policies removed from the Residential  
 224 | Property and Casualty Joint Underwriting Association cover risks  
 225 | located in Miami-Dade, Broward, and Palm Beach Counties or at

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226 | least 30 percent of the policies so removed cover risks located  
227 | in Miami-Dade, Broward, and Palm Beach Counties and an  
228 | additional 50 percent of the policies so removed cover risks  
229 | located in other coastal counties, and must also provide that no  
230 | more than 15 percent of the policies so removed may exclude  
231 | windstorm coverage. With the approval of the department, the  
232 | association may waive these geographic criteria for a take-out  
233 | plan that removes at least the lesser of 100,000 Residential  
234 | Property and Casualty Joint Underwriting Association policies or  
235 | 15 percent of the total number of Residential Property and  
236 | Casualty Joint Underwriting Association policies, provided the  
237 | governing board of the Residential Property and Casualty Joint  
238 | Underwriting Association certifies that the take-out plan will  
239 | materially reduce the Residential Property and Casualty Joint  
240 | Underwriting Association's 100-year probable maximum loss from  
241 | hurricanes. With the approval of the department, the board may  
242 | extend such credits for an additional year if the insurer  
243 | guarantees an additional year of renewability for all policies  
244 | removed from the Residential Property and Casualty Joint  
245 | Underwriting Association, or for 2 additional years if the  
246 | insurer guarantees 2 additional years of renewability for all  
247 | policies removed from the Residential Property and Casualty  
248 | Joint Underwriting Association.

249 |       b. Assessments to pay deficits in the association under  
250 | this subparagraph shall be included as an appropriate factor in

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251 the making of rates as provided in s. 627.3512.

252 c. The Legislature finds that the potential for unlimited  
253 deficit assessments under this subparagraph may induce insurers  
254 to attempt to reduce their writings in the voluntary market, and  
255 that such actions would worsen the availability problems that  
256 the association was created to remedy. It is the intent of the  
257 Legislature that insurers remain fully responsible for paying  
258 regular assessments and collecting emergency assessments for any  
259 deficits of the association; however, it is also the intent of  
260 the Legislature to provide a means by which assessment  
261 liabilities may be amortized over a period of years.

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

267 (II) When the deficit incurred in a particular calendar  
268 year exceeds 10 percent of the aggregate statewide direct  
269 written premium for property insurance for the prior calendar  
270 year for all member insurers, the association shall levy an  
271 assessment on member insurers in an amount equal to the greater  
272 of 10 percent of the deficit or 10 percent of the aggregate  
273 statewide direct written premium for property insurance for the  
274 prior calendar year for member insurers. Any remaining deficit  
275 shall be recovered through emergency assessments under sub-sub-

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276 subparagraph (III).

277 (III) Upon a determination by the board of directors that  
278 a deficit exceeds the amount that will be recovered through  
279 regular assessments on member insurers, pursuant to sub-sub-  
280 subparagraph (I) or sub-sub-subparagraph (II), the board shall  
281 levy, after verification by the department, emergency  
282 assessments to be collected by member insurers and by  
283 underwriting associations created pursuant to this section which  
284 write property insurance, upon issuance or renewal of property  
285 insurance policies other than National Flood Insurance policies  
286 in the year or years following levy of the regular assessments.  
287 The amount of the emergency assessment collected in a particular  
288 year shall be a uniform percentage of that year's direct written  
289 premium for property insurance for all member insurers and  
290 underwriting associations, excluding National Flood Insurance  
291 policy premiums, as annually determined by the board and  
292 verified by the department. The department shall verify the  
293 arithmetic calculations involved in the board's determination  
294 within 30 days after receipt of the information on which the  
295 determination was based. Notwithstanding any other provision of  
296 law, each member insurer and each underwriting association  
297 created pursuant to this section shall collect emergency  
298 assessments from its policyholders without such obligation being  
299 affected by any credit, limitation, exemption, or deferment. The  
300 emergency assessments so collected shall be transferred directly

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301 to the association on a periodic basis as determined by the  
302 association. The aggregate amount of emergency assessments  
303 levied under this sub-sub-subparagraph in any calendar year may  
304 not exceed the greater of 10 percent of the amount needed to  
305 cover the original deficit, plus interest, fees, commissions,  
306 required reserves, and other costs associated with financing of  
307 the original deficit, or 10 percent of the aggregate statewide  
308 direct written premium for property insurance written by member  
309 insurers and underwriting associations for the prior year, plus  
310 interest, fees, commissions, required reserves, and other costs  
311 associated with financing the original deficit. The board may  
312 pledge the proceeds of the emergency assessments under this sub-  
313 sub-subparagraph as the source of revenue for bonds, to retire  
314 any other debt incurred as a result of the deficit or events  
315 giving rise to the deficit, or in any other way that the board  
316 determines will efficiently recover the deficit. The emergency  
317 assessments under this sub-sub-subparagraph shall continue as  
318 long as any bonds issued or other indebtedness incurred with  
319 respect to a deficit for which the assessment was imposed remain  
320 outstanding, unless adequate provision has been made for the  
321 payment of such bonds or other indebtedness pursuant to the  
322 document governing such bonds or other indebtedness. Emergency  
323 assessments collected under this sub-sub-subparagraph are not  
324 part of an insurer's rates, are not premium, and are not subject  
325 to premium tax, fees, or commissions; however, failure to pay

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326 the emergency assessment shall be treated as failure to pay  
 327 premium.

328 (IV) Each member insurer's share of the total regular  
 329 assessments under sub-sub-subparagraph (I) or sub-sub-  
 330 subparagraph (II) shall be in the proportion that the insurer's  
 331 net direct premium for property insurance in this state, for the  
 332 year preceding the assessment bears to the aggregate statewide  
 333 net direct premium for property insurance of all member  
 334 insurers, as reduced by any credits for voluntary writings for  
 335 that year.

336 (V) If regular deficit assessments are made under sub-sub-  
 337 subparagraph (I) or sub-sub-subparagraph (II), ~~or by the~~  
 338 ~~Residential Property and Casualty Joint Underwriting Association~~  
 339 ~~under sub-subparagraph (6)(b)3.a.~~, the association shall levy  
 340 upon the association's policyholders, as part of its next rate  
 341 filing, or by a separate rate filing solely for this purpose, a  
 342 market equalization surcharge in a percentage equal to the total  
 343 amount of such regular assessments divided by the aggregate  
 344 statewide direct written premium for property insurance for  
 345 member insurers for the prior calendar year. Market equalization  
 346 surcharges under this sub-sub-subparagraph are not considered  
 347 premium and are not subject to commissions, fees, or premium  
 348 taxes; however, failure to pay a market equalization surcharge  
 349 shall be treated as failure to pay premium.

350 e. The governing body of any unit of local government, any

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351 residents of which are insured under the plan, may issue bonds  
352 as defined in s. 125.013 or s. 166.101 to fund an assistance  
353 program, in conjunction with the association, for the purpose of  
354 defraying deficits of the association. In order to avoid  
355 needless and indiscriminate proliferation, duplication, and  
356 fragmentation of such assistance programs, any unit of local  
357 government, any residents of which are insured by the  
358 association, may provide for the payment of losses, regardless  
359 of whether or not the losses occurred within or outside of the  
360 territorial jurisdiction of the local government. Revenue bonds  
361 may not be issued until validated pursuant to chapter 75, unless  
362 a state of emergency is declared by executive order or  
363 proclamation of the Governor pursuant to s. 252.36 making such  
364 findings as are necessary to determine that it is in the best  
365 interests of, and necessary for, the protection of the public  
366 health, safety, and general welfare of residents of this state  
367 and the protection and preservation of the economic stability of  
368 insurers operating in this state, and declaring it an essential  
369 public purpose to permit certain municipalities or counties to  
370 issue bonds as will provide relief to claimants and  
371 policyholders of the association and insurers responsible for  
372 apportionment of plan losses. Any such unit of local government  
373 may enter into such contracts with the association and with any  
374 other entity created pursuant to this subsection as are  
375 necessary to carry out this paragraph. Any bonds issued under

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376 | this sub-subparagraph shall be payable from and secured by  
377 | moneys received by the association from assessments under this  
378 | subparagraph, and assigned and pledged to or on behalf of the  
379 | unit of local government for the benefit of the holders of such  
380 | bonds. The funds, credit, property, and taxing power of the  
381 | state or of the unit of local government shall not be pledged  
382 | for the payment of such bonds. If any of the bonds remain unsold  
383 | 60 days after issuance, the department shall require all  
384 | insurers subject to assessment to purchase the bonds, which  
385 | shall be treated as admitted assets; each insurer shall be  
386 | required to purchase that percentage of the unsold portion of  
387 | the bond issue that equals the insurer's relative share of  
388 | assessment liability under this subsection. An insurer shall not  
389 | be required to purchase the bonds to the extent that the  
390 | department determines that the purchase would endanger or impair  
391 | the solvency of the insurer. The authority granted by this sub-  
392 | subparagraph is additional to any bonding authority granted by  
393 | subparagraph 6.

394 |       3. The plan shall also provide that any member with a  
395 | surplus as to policyholders of \$25 million or less writing 25  
396 | percent or more of its total countrywide property insurance  
397 | premiums in this state may petition the department, within the  
398 | first 90 days of each calendar year, to qualify as a limited  
399 | apportionment company. The apportionment of such a member  
400 | company in any calendar year for which it is qualified shall not



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401 exceed its gross participation, which shall not be affected by  
402 the formula for voluntary writings. In no event shall a limited  
403 apportionment company be required to participate in any  
404 apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I)  
405 or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds  
406 \$50 million after payment of available plan funds in any  
407 calendar year. However, a limited apportionment company shall  
408 collect from its policyholders any emergency assessment imposed  
409 under sub-sub-subparagraph 2.d.(III). The plan shall provide  
410 that, if the department determines that any regular assessment  
411 will result in an impairment of the surplus of a limited  
412 apportionment company, the department may direct that all or  
413 part of such assessment be deferred. However, there shall be no  
414 limitation or deferment of an emergency assessment to be  
415 collected from policyholders under sub-sub-subparagraph  
416 2.d.(III).

417 4. The plan shall provide for the deferment, in whole or  
418 in part, of a regular assessment of a member insurer under sub-  
419 sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but  
420 not for an emergency assessment collected from policyholders  
421 under sub-sub-subparagraph 2.d.(III), if, in the opinion of the  
422 commissioner, payment of such regular assessment would endanger  
423 or impair the solvency of the member insurer. In the event a  
424 regular assessment against a member insurer is deferred in whole  
425 or in part, the amount by which such assessment is deferred may

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426 | be assessed against the other member insurers in a manner  
 427 | consistent with the basis for assessments set forth in sub-sub-  
 428 | subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

429 |       5.a. The plan of operation may include deductibles and  
 430 | rules for classification of risks and rate modifications  
 431 | consistent with the objective of providing and maintaining funds  
 432 | sufficient to pay catastrophe losses.

433 |       b. It is the intent of the Legislature that the rates for  
 434 | coverage provided by the association be actuarially sound and  
 435 | not competitive with approved rates charged in the admitted  
 436 | voluntary market such that the association functions as a  
 437 | residual market mechanism to provide insurance only when the  
 438 | insurance cannot be procured in the voluntary market. The plan  
 439 | of operation shall provide a mechanism to assure that, beginning  
 440 | no later than January 1, 1999, the rates charged by the  
 441 | association for each line of business are reflective of approved  
 442 | rates in the voluntary market for hurricane coverage for each  
 443 | line of business in the various areas eligible for association  
 444 | coverage.

445 |       c. The association shall provide for windstorm coverage on  
 446 | residential properties in limits up to \$10 million for  
 447 | commercial lines residential risks and up to \$1 million for  
 448 | personal lines residential risks. If coverage with the  
 449 | association is sought for a residential risk valued in excess of  
 450 | these limits, coverage shall be available to the risk up to the

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451 replacement cost or actual cash value of the property, at the  
 452 option of the insured, if coverage for the risk cannot be  
 453 located in the authorized market. The association must accept a  
 454 commercial lines residential risk with limits above \$10 million  
 455 or a personal lines residential risk with limits above \$1  
 456 million if coverage is not available in the authorized market.  
 457 The association may write coverage above the limits specified in  
 458 this subparagraph with or without facultative or other  
 459 reinsurance coverage, as the association determines appropriate.

460 d. The plan of operation must provide objective criteria  
 461 and procedures, approved by the department, to be uniformly  
 462 applied for all applicants in determining whether an individual  
 463 risk is so hazardous as to be uninsurable. In making this  
 464 determination and in establishing the criteria and procedures,  
 465 the following shall be considered:

466 (I) Whether the likelihood of a loss for the individual  
 467 risk is substantially higher than for other risks of the same  
 468 class; and

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

472  
 473 The acceptance or rejection of a risk by the association  
 474 pursuant to such criteria and procedures must be construed as  
 475 the private placement of insurance, and the provisions of

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476 chapter 120 do not apply.

477 e. If the risk accepts an offer of coverage through the  
 478 market assistance program or through a mechanism established by  
 479 the association, either before the policy is issued by the  
 480 association or during the first 30 days of coverage by the  
 481 association, and the producing agent who submitted the  
 482 application to the association is not currently appointed by the  
 483 insurer, the insurer shall:

484 (I) Pay to the producing agent of record of the policy,  
 485 for the first year, an amount that is the greater of the  
 486 insurer's usual and customary commission for the type of policy  
 487 written or a fee equal to the usual and customary commission of  
 488 the association; or

489 (II) Offer to allow the producing agent of record of the  
 490 policy to continue servicing the policy for a period of not less  
 491 than 1 year and offer to pay the agent the greater of the  
 492 insurer's or the association's usual and customary commission  
 493 for the type of policy written.

494  
 495 If the producing agent is unwilling or unable to accept  
 496 appointment, the new insurer shall pay the agent in accordance  
 497 with sub-sub-subparagraph (I). Subject to the provisions of s.  
 498 627.3517, the policies issued by the association must provide  
 499 that if the association obtains an offer from an authorized  
 500 insurer to cover the risk at its approved rates under either a

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501 standard policy including wind coverage or, if consistent with  
502 the insurer's underwriting rules as filed with the department, a  
503 basic policy including wind coverage, the risk is no longer  
504 eligible for coverage through the association. Upon termination  
505 of eligibility, the association shall provide written notice to  
506 the policyholder and agent of record stating that the  
507 association policy must be canceled as of 60 days after the date  
508 of the notice because of the offer of coverage from an  
509 authorized insurer. Other provisions of the insurance code  
510 relating to cancellation and notice of cancellation do not apply  
511 to actions under this sub-subparagraph.

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

516 (I) Pay to the producing agent of record of the  
517 association policy, for the first year, an amount that is the  
518 greater of the insurer's usual and customary commission for the  
519 type of policy written or a fee equal to the usual and customary  
520 commission of the association; or

521 (II) Offer to allow the producing agent of record of the  
522 association policy to continue servicing the policy for a period  
523 of not less than 1 year and offer to pay the agent the greater  
524 of the insurer's or the association's usual and customary  
525 commission for the type of policy written.

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526  
 527 If the producing agent is unwilling or unable to accept  
 528 appointment, the new insurer shall pay the agent in accordance  
 529 with sub-sub-subparagraph (I).

530       6.a. The plan of operation may authorize the formation of  
 531 a private nonprofit corporation, a private nonprofit  
 532 unincorporated association, a partnership, a trust, a limited  
 533 liability company, or a nonprofit mutual company which may be  
 534 empowered, among other things, to borrow money by issuing bonds  
 535 or by incurring other indebtedness and to accumulate reserves or  
 536 funds to be used for the payment of insured catastrophe losses.  
 537 The plan may authorize all actions necessary to facilitate the  
 538 issuance of bonds, including the pledging of assessments or  
 539 other revenues.

540       b. Any entity created under this subsection, or any entity  
 541 formed for the purposes of this subsection, may sue and be sued,  
 542 may borrow money; issue bonds, notes, or debt instruments;  
 543 pledge or sell assessments, market equalization surcharges and  
 544 other surcharges, rights, premiums, contractual rights,  
 545 projected recoveries from the Florida Hurricane Catastrophe  
 546 Fund, other reinsurance recoverables, and other assets as  
 547 security for such bonds, notes, or debt instruments; enter into  
 548 any contracts or agreements necessary or proper to accomplish  
 549 such borrowings; and take other actions necessary to carry out  
 550 the purposes of this subsection. The association may issue bonds

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551 or incur other indebtedness, or have bonds issued on its behalf  
552 by a unit of local government pursuant to subparagraph (6)(q)2.,  
553 in the absence of a hurricane or other weather-related event,  
554 upon a determination by the association subject to approval by  
555 the department that such action would enable it to efficiently  
556 meet the financial obligations of the association and that such  
557 financings are reasonably necessary to effectuate the  
558 requirements of this subsection. Any such entity may accumulate  
559 reserves and retain surpluses as of the end of any association  
560 year to provide for the payment of losses incurred by the  
561 association during that year or any future year. The association  
562 shall incorporate and continue the plan of operation and  
563 articles of agreement in effect on the effective date of chapter  
564 76-96, Laws of Florida, to the extent that it is not  
565 inconsistent with chapter 76-96, and as subsequently modified  
566 consistent with chapter 76-96. The board of directors and  
567 officers currently serving shall continue to serve until their  
568 successors are duly qualified as provided under the plan. The  
569 assets and obligations of the plan in effect immediately prior  
570 to the effective date of chapter 76-96 shall be construed to be  
571 the assets and obligations of the successor plan created herein.

572 c. In recognition of s. 10, Art. I of the State  
573 Constitution, prohibiting the impairment of obligations of  
574 contracts, it is the intent of the Legislature that no action be  
575 taken whose purpose is to impair any bond indenture or financing

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576 agreement or any revenue source committed by contract to such  
577 bond or other indebtedness issued or incurred by the association  
578 or any other entity created under this subsection.

579 7. On such coverage, an agent's remuneration shall be that  
580 amount of money payable to the agent by the terms of his or her  
581 contract with the company with which the business is placed.  
582 However, no commission will be paid on that portion of the  
583 premium which is in excess of the standard premium of that  
584 company.

585 8. Subject to approval by the department, the association  
586 may establish different eligibility requirements and operational  
587 procedures for any line or type of coverage for any specified  
588 eligible area or portion of an eligible area if the board  
589 determines that such changes to the eligibility requirements and  
590 operational procedures are justified due to the voluntary market  
591 being sufficiently stable and competitive in such area or for  
592 such line or type of coverage and that consumers who, in good  
593 faith, are unable to obtain insurance through the voluntary  
594 market through ordinary methods would continue to have access to  
595 coverage from the association. When coverage is sought in  
596 connection with a real property transfer, such requirements and  
597 procedures shall not provide for an effective date of coverage  
598 later than the date of the closing of the transfer as  
599 established by the transferor, the transferee, and, if  
600 applicable, the lender.



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601           9. Notwithstanding any other provision of law:  
 602           a. The pledge or sale of, the lien upon, and the security  
 603 interest in any rights, revenues, or other assets of the  
 604 association created or purported to be created pursuant to any  
 605 financing documents to secure any bonds or other indebtedness of  
 606 the association shall be and remain valid and enforceable,  
 607 notwithstanding the commencement of and during the continuation  
 608 of, and after, any rehabilitation, insolvency, liquidation,  
 609 bankruptcy, receivership, conservatorship, reorganization, or  
 610 similar proceeding against the association under the laws of  
 611 this state or any other applicable laws.  
 612           b. No such proceeding shall relieve the association of its  
 613 obligation, or otherwise affect its ability to perform its  
 614 obligation, to continue to collect, or levy and collect,  
 615 assessments, market equalization or other surcharges, projected  
 616 recoveries from the Florida Hurricane Catastrophe Fund,  
 617 reinsurance recoverables, or any other rights, revenues, or  
 618 other assets of the association pledged.  
 619           c. Each such pledge or sale of, lien upon, and security  
 620 interest in, including the priority of such pledge, lien, or  
 621 security interest, any such assessments, emergency assessments,  
 622 market equalization or renewal surcharges, projected recoveries  
 623 from the Florida Hurricane Catastrophe Fund, reinsurance  
 624 recoverables, or other rights, revenues, or other assets which  
 625 are collected, or levied and collected, after the commencement

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626 of and during the pendency of or after any such proceeding shall  
 627 continue unaffected by such proceeding.

628 d. As used in this subsection, the term "financing  
 629 documents" means any agreement, instrument, or other document  
 630 now existing or hereafter created evidencing any bonds or other  
 631 indebtedness of the association or pursuant to which any such  
 632 bonds or other indebtedness has been or may be issued and  
 633 pursuant to which any rights, revenues, or other assets of the  
 634 association are pledged or sold to secure the repayment of such  
 635 bonds or indebtedness, together with the payment of interest on  
 636 such bonds or such indebtedness, or the payment of any other  
 637 obligation of the association related to such bonds or  
 638 indebtedness.

639 e. Any such pledge or sale of assessments, revenues,  
 640 contract rights or other rights or assets of the association  
 641 shall constitute a lien and security interest, or sale, as the  
 642 case may be, that is immediately effective and attaches to such  
 643 assessments, revenues, contract, or other rights or assets,  
 644 whether or not imposed or collected at the time the pledge or  
 645 sale is made. Any such pledge or sale is effective, valid,  
 646 binding, and enforceable against the association or other entity  
 647 making such pledge or sale, and valid and binding against and  
 648 superior to any competing claims or obligations owed to any  
 649 other person or entity, including policyholders in this state,  
 650 asserting rights in any such assessments, revenues, contract, or

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651 other rights or assets to the extent set forth in and in  
 652 accordance with the terms of the pledge or sale contained in the  
 653 applicable financing documents, whether or not any such person  
 654 or entity has notice of such pledge or sale and without the need  
 655 for any physical delivery, recordation, filing, or other action.

656 f. There shall be no liability on the part of, and no  
 657 cause of action of any nature shall arise against, any member  
 658 insurer or its agents or employees, agents or employees of the  
 659 association, members of the board of directors of the  
 660 association, or the department or its representatives, for any  
 661 action taken by them in the performance of their duties or  
 662 responsibilities under this subsection. Such immunity does not  
 663 apply to actions for breach of any contract or agreement  
 664 pertaining to insurance, or any willful tort.

665 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

669 1. The Legislature finds that private insurers are  
 670 unwilling or unable to provide affordable property insurance  
 671 coverage in this state to the extent sought and needed. The  
 672 absence of affordable property insurance threatens the public  
 673 health, safety, and welfare and likewise threatens the economic  
 674 health of the state. The state therefore has a compelling public  
 675 interest and a public purpose to assist in assuring that

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676 | property in the state is insured and that it is insured at  
677 | affordable rates so as to facilitate the remediation,  
678 | reconstruction, and replacement of damaged or destroyed property  
679 | in order to reduce or avoid the negative effects otherwise  
680 | resulting to the public health, safety, and welfare, to the  
681 | economy of the state, and to the revenues of the state and local  
682 | governments which are needed to provide for the public welfare.  
683 | It is necessary, therefore, to provide affordable property  
684 | insurance to applicants who are in good faith entitled to  
685 | procure insurance through the voluntary market but are unable to  
686 | do so. The Legislature intends, therefore, that affordable  
687 | property insurance be provided and that it continue to be  
688 | provided, as long as necessary, through Citizens Property  
689 | Insurance Corporation, a government entity that is an integral  
690 | part of the state, and that is not a private insurance company.  
691 | To that end, the corporation shall strive to increase the  
692 | availability of affordable property insurance in this state,  
693 | while achieving efficiencies and economies, and while providing  
694 | service to policyholders, applicants, and agents which is no  
695 | less than the quality generally provided in the voluntary  
696 | market, for the achievement of the foregoing public purposes.  
697 | Because it is essential for this government entity to have the  
698 | maximum financial resources to pay claims following a  
699 | catastrophic hurricane, it is the intent of the Legislature that  
700 | the corporation continue to be an integral part of the state and

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701 that the income of the corporation be exempt from federal income  
702 taxation and that interest on the debt obligations issued by the  
703 corporation be exempt from federal income taxation.

704 2. The Residential Property and Casualty Joint  
705 Underwriting Association originally created by this statute  
706 shall be known as the Citizens Property Insurance Corporation.  
707 The corporation shall provide insurance for residential and  
708 commercial property, for applicants who are entitled, but, in  
709 good faith, are unable to procure insurance through the  
710 voluntary market. The corporation shall operate pursuant to a  
711 plan of operation approved by order of the Financial Services  
712 Commission. The plan is subject to continuous review by the  
713 commission. The commission may, by order, withdraw approval of  
714 all or part of a plan if the commission determines that  
715 conditions have changed since approval was granted and that the  
716 purposes of the plan require changes in the plan. For the  
717 purposes of this subsection, residential coverage includes both  
718 personal lines residential coverage, which consists of the type  
719 of coverage provided by homeowner, mobile home owner, dwelling,  
720 tenant, condominium unit owner, and similar policies; and  
721 commercial lines residential coverage, which consists of the  
722 type of coverage provided by condominium association, apartment  
723 building, and similar policies.

724 3. With respect to coverage for personal lines residential  
725 structures:

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726 a. ~~Effective January 1, 2014, a structure that has a~~  
727 ~~dwelling replacement cost of \$1 million or more, or a single~~  
728 ~~condominium unit that has a combined dwelling and contents~~  
729 ~~replacement cost of \$1 million or more, is not eligible for~~  
730 ~~coverage by the corporation. Such dwellings insured by the~~  
731 ~~corporation on December 31, 2013, may continue to be covered by~~  
732 ~~the corporation until the end of the policy term. The office~~  
733 ~~shall approve the method used by the corporation for valuing the~~  
734 ~~dwelling replacement cost for the purposes of this subparagraph.~~  
735 ~~If a policyholder is insured by the corporation before being~~  
736 ~~determined to be ineligible pursuant to this subparagraph and~~  
737 ~~such policyholder files a lawsuit challenging the determination,~~  
738 ~~the policyholder may remain insured by the corporation until the~~  
739 ~~conclusion of the litigation.~~

740 b. ~~Effective January 1, 2015, a structure that has a~~  
741 ~~dwelling replacement cost of \$900,000 or more, or a single~~  
742 ~~condominium unit that has a combined dwelling and contents~~  
743 ~~replacement cost of \$900,000 or more, is not eligible for~~  
744 ~~coverage by the corporation. Such dwellings insured by the~~  
745 ~~corporation on December 31, 2014, may continue to be covered by~~  
746 ~~the corporation only until the end of the policy term.~~

747 c. ~~Effective January 1, 2016, a structure that has a~~  
748 ~~dwelling replacement cost of \$800,000 or more, or a single~~  
749 ~~condominium unit that has a combined dwelling and contents~~  
750 ~~replacement cost of \$800,000 or more, is not eligible for~~

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751 ~~coverage by the corporation. Such dwellings insured by the~~  
 752 ~~corporation on December 31, 2015, may continue to be covered by~~  
 753 ~~the corporation until the end of the policy term.~~

754 ~~d.~~ Effective January 1, 2017, a structure that has a  
 755 dwelling replacement cost of \$700,000 or more, or a single  
 756 condominium unit that has a combined dwelling and contents  
 757 replacement cost of \$700,000 or more, is not eligible for  
 758 coverage by the corporation. ~~Such dwellings insured by the~~  
 759 ~~corporation on December 31, 2016, may continue to be covered by~~  
 760 ~~the corporation until the end of the policy term.~~

761 b. The requirements of sub-subparagraph a. ~~sub-~~  
 762 ~~subparagraphs b.-d.~~ do not apply in counties where the office  
 763 determines there is not a reasonable degree of competition. In  
 764 such counties a personal lines residential structure that has a  
 765 dwelling replacement cost of less than \$1 million, or a single  
 766 condominium unit that has a combined dwelling and contents  
 767 replacement cost of less than \$1 million, is eligible for  
 768 coverage by the corporation.

769 4. It is the intent of the Legislature that policyholders,  
 770 applicants, and agents of the corporation receive service and  
 771 treatment of the highest possible level but never less than that  
 772 generally provided in the voluntary market. It is also intended  
 773 that the corporation be held to service standards no less than  
 774 those applied to insurers in the voluntary market by the office  
 775 with respect to responsiveness, timeliness, customer courtesy,

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776 and overall dealings with policyholders, applicants, or agents  
 777 of the corporation.

778 5.a. Effective January 1, 2009, a personal lines  
 779 residential structure that is located in the "wind-borne debris  
 780 region," as defined in s. 1609.2, International Building Code  
 781 (2006), and that has an insured value on the structure of  
 782 \$750,000 or more is not eligible for coverage by the corporation  
 783 unless the structure has opening protections as required under  
 784 the Florida Building Code for a newly constructed residential  
 785 structure in that area. A residential structure is deemed to  
 786 comply with this sub-subparagraph if it has shutters or opening  
 787 protections on all openings and if such opening protections  
 788 complied with the Florida Building Code at the time they were  
 789 installed.

790 b. Any major structure, as defined in s. 161.54(6)(a),  
 791 that is newly constructed, or rebuilt, repaired, restored, or  
 792 remodeled to increase the total square footage of finished area  
 793 by more than 25 percent, pursuant to a permit applied for after  
 794 July 1, 2015, is not eligible for coverage by the corporation if  
 795 the structure is seaward of the coastal construction control  
 796 line established pursuant to s. 161.053 or is within the Coastal  
 797 Barrier Resources System as designated by 16 U.S.C. ss. 3501-  
 798 3510.

799 6. With respect to wind-only coverage for commercial lines  
 800 residential condominiums, effective July 1, 2014, a condominium



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801 shall be deemed ineligible for coverage if 50 percent or more of  
 802 the units are rented more than eight times in a calendar year  
 803 for a rental agreement period of less than 30 days.

804 (b)1. All insurers authorized to write one or more subject  
 805 lines of business in this state are subject to assessment by the  
 806 corporation and, for the purposes of this subsection, are  
 807 referred to collectively as "assessable insurers." Insurers  
 808 writing one or more subject lines of business in this state  
 809 pursuant to part VIII of chapter 626 are not assessable  
 810 insurers; however, insureds who procure one or more subject  
 811 lines of business in this state pursuant to part VIII of chapter  
 812 626 are subject to assessment by the corporation and are  
 813 referred to collectively as "assessable insureds." An insurer's  
 814 assessment liability begins on the first day of the calendar  
 815 year following the year in which the insurer was issued a  
 816 certificate of authority to transact insurance for subject lines  
 817 of business in this state and terminates 1 year after the end of  
 818 the first calendar year during which the insurer no longer holds  
 819 a certificate of authority to transact insurance for subject  
 820 lines of business in this state.

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

825 ~~a.(I) A personal lines account for~~ Personal residential

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826 | policies that provide ~~issued by the corporation which provides~~  
 827 | comprehensive, multiperil coverage on risks that are not located  
 828 | in areas eligible for coverage by the Florida Windstorm  
 829 | Underwriting Association as those areas were defined on January  
 830 | 1, 2002, and for policies that do not provide coverage for the  
 831 | peril of wind on risks that are located in such areas;

832 |       **b.**(II) ~~A commercial lines account for~~ Commercial  
 833 | residential and commercial nonresidential policies that provide  
 834 | ~~issued by the corporation which provides~~ coverage for basic  
 835 | property perils on risks that are not located in areas eligible  
 836 | for coverage by the Florida Windstorm Underwriting Association  
 837 | as those areas were defined on January 1, 2002, and for policies  
 838 | that do not provide coverage for the peril of wind on risks that  
 839 | are located in such areas; and

840 |       **c.**(III) ~~A coastal account for~~ Personal residential  
 841 | policies and commercial residential and commercial  
 842 | nonresidential property policies that provide ~~issued by the~~  
 843 | ~~corporation which provides~~ coverage for the peril of wind on  
 844 | risks that are located in areas eligible for coverage by the  
 845 | Florida Windstorm Underwriting Association as those areas were  
 846 | defined on January 1, 2002. The corporation may offer policies  
 847 | that provide multiperil coverage and shall offer policies that  
 848 | provide coverage only for the peril of wind for risks located in  
 849 | areas eligible for coverage by the Florida Windstorm  
 850 | Underwriting Association, as those areas were defined on January

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851 1, 2002 in the coastal account. ~~Effective July 1, 2014,~~ The  
 852 corporation may not offer ~~shall cease offering~~ new commercial  
 853 residential policies providing multiperil coverage but ~~and~~ shall  
 854 ~~instead~~ continue to offer commercial residential wind-only  
 855 policies, and may offer commercial residential policies  
 856 excluding wind. However, the corporation may, ~~however,~~ continue  
 857 to renew a commercial residential multiperil policy on a  
 858 building that was ~~is~~ insured by the corporation on June 30,  
 859 2014, under a multiperil policy. In issuing multiperil coverage  
 860 under this sub-subparagraph, the corporation may use its  
 861 approved policy forms and rates for risks located in areas not  
 862 eligible for coverage by the Florida Windstorm Underwriting  
 863 Association, as those areas were defined on January 1, 2002, and  
 864 for policies that do not provide coverage for the peril of wind  
 865 on risks that are located in such areas ~~the personal lines~~  
 866 ~~account.~~ An applicant or insured who is eligible to purchase a  
 867 multiperil policy from the corporation may purchase a multiperil  
 868 policy from an authorized insurer without prejudice to the  
 869 applicant's or insured's eligibility to prospectively purchase a  
 870 policy that provides coverage only for the peril of wind from  
 871 the corporation. An applicant or insured who is eligible for a  
 872 corporation policy that provides coverage only for the peril of  
 873 wind may elect to purchase or retain such policy and also  
 874 purchase or retain coverage excluding wind from an authorized  
 875 insurer without prejudice to the applicant's or insured's

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876 | eligibility to prospectively purchase a policy that provides  
 877 | multiperil coverage from the corporation. The following  
 878 | policies, which provide coverage only for the peril of wind,  
 879 | must also include quota share primary insurance under  
 880 | subparagraph (c)2.:

881 |       (I) Personal residential policies and commercial  
 882 | residential and commercial nonresidential property policies that  
 883 | provide coverage for the peril of wind on risks that are located  
 884 | in areas eligible for coverage by the Florida Windstorm  
 885 | Underwriting Association, as those areas were defined on January  
 886 | 1, 2002;

887 |       (II) Policies that provide multiperil coverage, if offered  
 888 | by the corporation, and policies that provide coverage only for  
 889 | the peril of wind for risks located in areas eligible for  
 890 | coverage by the Florida Windstorm Underwriting Association, as  
 891 | those areas were defined on January 1, 2002;

892 |       (III) Commercial residential wind-only policies;

893 |       (IV) Commercial residential policies excluding wind, if  
 894 | offered by the corporation; and

895 |       (V) Commercial residential multiperil policies on a  
 896 | building that was insured by the corporation on June 30, 2014 ~~It~~  
 897 | is the goal of the Legislature that there be an overall average  
 898 | savings of 10 percent or more for a policyholder who currently  
 899 | has a wind-only policy with the corporation, and an ex-wind  
 900 | policy with a voluntary insurer or the corporation, and who

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901 ~~obtains a multiperil policy from the corporation. It is the~~  
 902 ~~intent of the Legislature that the offer of multiperil coverage~~  
 903 ~~in the coastal account be made and implemented in a manner that~~  
 904 ~~does not adversely affect the tax-exempt status of the~~  
 905 ~~corporation or creditworthiness of or security for currently~~  
 906 ~~outstanding financing obligations or credit facilities of the~~  
 907 ~~coastal account, the personal lines account, or the commercial~~  
 908 ~~lines account. The coastal account must also include quota share~~  
 909 ~~primary insurance under subparagraph (c)2.~~

910  
 911 The area eligible for coverage with the corporation under this  
 912 sub-subparagraph under the coastal account also includes the  
 913 area within Port Canaveral, which is bordered on the south by  
 914 the City of Cape Canaveral, bordered on the west by the Banana  
 915 River, and bordered on the north by Federal Government property.

916 3. With respect to a deficit in the Citizens account:  
 917 a. Upon a determination by the board of governors that the  
 918 Citizens account has a projected deficit, the board shall levy a  
 919 Citizens policyholder surcharge against all policyholders of the  
 920 corporation.

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

924 (II) The surcharge is payable upon cancellation or  
 925 termination of the policy, upon renewal of the policy, or upon

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926 issuance of a new policy by the corporation within the first 12  
927 months after the date of the levy or the period of time  
928 necessary to fully collect the surcharge amount.

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

932 ~~b. The three separate accounts must be maintained as long~~  
933 ~~as financing obligations entered into by the Florida Windstorm~~  
934 ~~Underwriting Association or Residential Property and Casualty~~  
935 ~~Joint Underwriting Association are outstanding, in accordance~~  
936 ~~with the terms of the corresponding financing documents. If no~~  
937 ~~such financing obligations remain outstanding or if the~~  
938 ~~financing documents allow for combining of accounts, the~~  
939 ~~corporation may consolidate the three separate accounts into a~~  
940 ~~new account, to be known as the Citizens account, for all~~  
941 ~~revenues, assets, liabilities, losses, and expenses of the~~  
942 ~~corporation. The Citizens account, if established by the~~  
943 ~~corporation, is authorized to provide coverage to the same~~  
944 ~~extent as provided under each of the three separate accounts.~~  
945 ~~The authority to provide coverage under the Citizens account is~~  
946 ~~set forth in subparagraph 4. Consistent with this subparagraph~~  
947 ~~and prudent investment policies that minimize the cost of~~  
948 ~~carrying debt, the board shall exercise its best efforts to~~  
949 ~~retire existing debt or obtain the approval of necessary parties~~  
950 ~~to amend the terms of existing debt, so as to structure the most~~

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951 ~~efficient plan for consolidating the three separate accounts~~  
 952 ~~into a single account. Once the accounts are combined into one~~  
 953 ~~account, this subparagraph and subparagraph 3. shall be replaced~~  
 954 ~~in their entirety by subparagraphs 4. and 5.~~

955 ~~e. Creditors of the Residential Property and Casualty~~  
 956 ~~Joint Underwriting Association and the accounts specified in~~  
 957 ~~sub-sub-subparagraphs a.(I) and (II) may have a claim against,~~  
 958 ~~and recourse to, those accounts and no claim against, or~~  
 959 ~~recourse to, the account referred to in sub-sub-subparagraph~~  
 960 ~~a.(III). Creditors of the Florida Windstorm Underwriting~~  
 961 ~~Association have a claim against, and recourse to, the account~~  
 962 ~~referred to in sub-sub-subparagraph a.(III) and no claim~~  
 963 ~~against, or recourse to, the accounts referred to in sub-sub-~~  
 964 ~~subparagraphs a.(I) and (II).~~

965 ~~d. Revenues, assets, liabilities, losses, and expenses not~~  
 966 ~~attributable to particular accounts shall be prorated among the~~  
 967 ~~accounts.~~

968 ~~e. The Legislature finds that the revenues of the~~  
 969 ~~corporation are revenues that are necessary to meet the~~  
 970 ~~requirements set forth in documents authorizing the issuance of~~  
 971 ~~bonds under this subsection.~~

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

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

975 ~~a. After accounting for the Citizens policyholder~~

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976 ~~surcharge imposed under sub-subparagraph j., if the remaining~~  
977 ~~projected deficit incurred in the coastal account in a~~  
978 ~~particular calendar year:~~

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

984 ~~(II) Exceeds 2 percent of the aggregate statewide direct~~  
985 ~~written premium for the subject lines of business for the prior~~  
986 ~~calendar year, the corporation shall levy regular assessments on~~  
987 ~~assessable insurers under paragraph (q) and on assessable~~  
988 ~~insureds in an amount equal to the greater of 2 percent of the~~  
989 ~~projected deficit or 2 percent of the aggregate statewide direct~~  
990 ~~written premium for the subject lines of business for the prior~~  
991 ~~calendar year. Any remaining projected deficit shall be~~  
992 ~~recovered through emergency assessments under sub-subparagraph~~  
993 ~~e.~~

994 ~~b. Each assessable insurer's share of the amount being~~  
995 ~~assessed under sub-subparagraph a. must be in the proportion~~  
996 ~~that the assessable insurer's direct written premium for the~~  
997 ~~subject lines of business for the year preceding the assessment~~  
998 ~~bears to the aggregate statewide direct written premium for the~~  
999 ~~subject lines of business for that year. The assessment~~  
1000 ~~percentage applicable to each assessable insured is the ratio of~~



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1001 ~~the amount being assessed under sub-subparagraph a. to the~~  
1002 ~~aggregate statewide direct written premium for the subject lines~~  
1003 ~~of business for the prior year. Assessments levied by the~~  
1004 ~~corporation on assessable insurers under sub-subparagraph a.~~  
1005 ~~must be paid as required by the corporation's plan of operation~~  
1006 ~~and paragraph (q). Assessments levied by the corporation on~~  
1007 ~~assessable insureds under sub-subparagraph a. shall be collected~~  
1008 ~~by the surplus lines agent at the time the surplus lines agent~~  
1009 ~~collects the surplus lines tax required by s. 626.932, and paid~~  
1010 ~~to the Florida Surplus Lines Service Office at the time the~~  
1011 ~~surplus lines agent pays the surplus lines tax to that office.~~  
1012 ~~Upon receipt of regular assessments from surplus lines agents,~~  
1013 ~~the Florida Surplus Lines Service Office shall transfer the~~  
1014 ~~assessments directly to the corporation as determined by the~~  
1015 ~~corporation.~~

1016 ~~e. The corporation may not levy regular assessments under~~  
1017 ~~paragraph (q) pursuant to sub-subparagraph a. or sub-~~  
1018 ~~subparagraph b. if the three separate accounts in sub-sub-~~  
1019 ~~subparagraphs 2.a.(I)-(III) have been consolidated into the~~  
1020 ~~Citizens account pursuant to sub-subparagraph 2.b. However, the~~  
1021 ~~outstanding balance of any regular assessment levied by the~~  
1022 ~~corporation before establishment of the Citizens account remains~~  
1023 ~~payable to the corporation.~~

1024 ~~b.d.~~ After accounting for the Citizens policyholder  
1025 surcharge imposed under sub-subparagraph a. j., the remaining

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1026 | projected deficits in the Citizens ~~personal lines~~ account and in  
 1027 | ~~the commercial lines account~~ in a particular calendar year shall  
 1028 | be recovered through emergency assessments under sub-  
 1029 | subparagraph c. ~~e.~~  
 1030 | c.e. Upon a determination by the board of governors that a  
 1031 | projected deficit in the Citizens ~~an~~ account exceeds the amount  
 1032 | that is expected to be recovered through surcharges ~~regular~~  
 1033 | ~~assessments under sub-subparagraph a., plus the amount that is~~  
 1034 | ~~expected to be recovered through surcharges under sub-~~  
 1035 | ~~subparagraph j.~~, the board, after verification by the office,  
 1036 | shall levy emergency assessments for as many years as necessary  
 1037 | to cover the deficits, to be collected by assessable insurers  
 1038 | and the corporation and collected from assessable insureds upon  
 1039 | issuance or renewal of policies for subject lines of business,  
 1040 | excluding National Flood Insurance Program policies. The amount  
 1041 | collected in a particular year must be a uniform percentage of  
 1042 | that year's direct written premium for subject lines of business  
 1043 | and the Citizens account ~~all accounts of the corporation,~~  
 1044 | excluding National Flood Insurance Program policy premiums, as  
 1045 | annually determined by the board and verified by the office. The  
 1046 | office shall verify the arithmetic calculations involved in the  
 1047 | board's determination within 30 days after receipt of the  
 1048 | information on which the determination was based. The office  
 1049 | shall notify assessable insurers and the Florida Surplus Lines  
 1050 | Service Office of the date on which assessable insurers shall

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1051 begin to collect and assessable insureds shall begin to pay such  
1052 assessment. The date must be at least 90 days after the date the  
1053 corporation levies emergency assessments pursuant to this sub-  
1054 subparagraph. Notwithstanding any other ~~provision of law~~, the  
1055 corporation and each assessable insurer that writes subject  
1056 lines of business shall collect emergency assessments from its  
1057 policyholders without such obligation being affected by any  
1058 credit, limitation, exemption, or deferment. Emergency  
1059 assessments levied by the corporation on assessable insureds  
1060 shall be collected by the surplus lines agent at the time the  
1061 surplus lines agent collects the surplus lines tax required by  
1062 s. 626.932 and paid to the Florida Surplus Lines Service Office  
1063 at the time the surplus lines agent pays the surplus lines tax  
1064 to that office. The emergency assessments collected shall be  
1065 transferred directly to the corporation on a periodic basis as  
1066 determined by the corporation and held by the corporation solely  
1067 in the Citizens ~~applicable~~ account. The aggregate amount of  
1068 emergency assessments levied for the Citizens ~~an~~ account in any  
1069 calendar year may be less than but may not exceed the greater of  
1070 10 percent of the amount needed to cover the deficit, plus  
1071 interest, fees, commissions, required reserves, and other costs  
1072 associated with financing the original deficit, or 10 percent of  
1073 the aggregate statewide direct written premium for subject lines  
1074 of business and the Citizens account ~~all accounts~~ of the  
1075 corporation for the prior year, plus interest, fees,

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1076 commissions, required reserves, and other costs associated with  
1077 financing the deficit.

1078 ~~d.f.~~ The corporation may pledge the proceeds of  
1079 assessments, projected recoveries from the Florida Hurricane  
1080 Catastrophe Fund, other insurance and reinsurance recoverables,  
1081 policyholder surcharges and other surcharges, and other funds  
1082 available to the corporation as the source of revenue for and to  
1083 secure bonds issued under paragraph (q), bonds or other  
1084 indebtedness issued under subparagraph (c)3., or lines of credit  
1085 or other financing mechanisms issued or created under this  
1086 subsection, or to retire any other debt incurred as a result of  
1087 deficits or events giving rise to deficits, or in any other way  
1088 that the board determines will efficiently recover such  
1089 deficits. The purpose of the lines of credit or other financing  
1090 mechanisms is to provide additional resources to assist the  
1091 corporation in covering claims and expenses attributable to a  
1092 catastrophe. As used in this subsection, the term "assessments"  
1093 includes emergency ~~regular~~ assessments under sub-subparagraph c.  
1094 ~~a. or subparagraph (q)1. and emergency assessments under sub-~~  
1095 ~~subparagraph e.~~ Emergency assessments collected under sub-  
1096 subparagraph c. e. are not part of an insurer's rates, are not  
1097 premium, and are not subject to premium tax, fees, or  
1098 commissions; however, failure to pay the emergency assessment  
1099 shall be treated as failure to pay premium. The emergency  
1100 assessments shall continue as long as any bonds issued or other

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1101 indebtedness incurred with respect to a deficit for which the  
 1102 assessment was imposed remain outstanding, unless adequate  
 1103 provision has been made for the payment of such bonds or other  
 1104 indebtedness pursuant to the documents governing such bonds or  
 1105 indebtedness.

1106 ~~e.g.~~ As used in this subsection and for purposes of any  
 1107 deficit incurred on or after January 25, 2007, the term "subject  
 1108 lines of business" means insurance written by assessable  
 1109 insurers or procured by assessable insureds for all property and  
 1110 casualty lines of business in this state, but not including  
 1111 workers' compensation or medical malpractice. As used in this  
 1112 sub-subparagraph, the term "property and casualty lines of  
 1113 business" includes all lines of business identified on Form 2,  
 1114 Exhibit of Premiums and Losses, in the annual statement required  
 1115 of authorized insurers under s. 624.424 and any rule adopted  
 1116 under this section, except for those lines identified as  
 1117 accident and health insurance and except for policies written  
 1118 under the National Flood Insurance Program or the Federal Crop  
 1119 Insurance Program. For purposes of this sub-subparagraph, the  
 1120 term "workers' compensation" includes both workers' compensation  
 1121 insurance and excess workers' compensation insurance.

1122 ~~f.h.~~ The Florida Surplus Lines Service Office shall  
 1123 annually determine ~~annually~~ the aggregate statewide written  
 1124 premium in subject lines of business procured by assessable  
 1125 insureds and report that information to the corporation in a

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1126 form and at a time the corporation specifies to ensure that the  
1127 corporation can meet the requirements of this subsection and the  
1128 corporation's financing obligations.

1129 g.~~i.~~ The Florida Surplus Lines Service Office shall verify  
1130 the proper application by surplus lines agents of assessment  
1131 percentages for ~~regular assessments and~~ emergency assessments  
1132 levied under this subparagraph on assessable insureds and assist  
1133 the corporation in ensuring the accurate, timely collection and  
1134 payment of assessments by surplus lines agents as required by  
1135 the corporation.

1136 ~~j.~~ Upon ~~determination by the board of governors that an~~  
1137 ~~account has a projected deficit, the board shall levy a Citizens~~  
1138 ~~policyholder surcharge against all policyholders of the~~  
1139 ~~corporation.~~

1140 ~~(I) The surcharge shall be levied as a uniform percentage~~  
1141 ~~of the premium for the policy of up to 15 percent of such~~  
1142 ~~premium, which funds shall be used to offset the deficit.~~

1143 ~~(II) The surcharge is payable upon cancellation or~~  
1144 ~~termination of the policy, upon renewal of the policy, or upon~~  
1145 ~~issuance of a new policy by the corporation within the first 12~~  
1146 ~~months after the date of the levy or the period of time~~  
1147 ~~necessary to fully collect the surcharge amount.~~

1148 ~~(III) The corporation may not levy any regular assessments~~  
1149 ~~under paragraph (q) pursuant to sub-subparagraph a. or sub-~~  
1150 ~~subparagraph b. with respect to a particular year's deficit~~

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1151 ~~until the corporation has first levied the full amount of the~~  
 1152 ~~surcharge authorized by this sub-subparagraph.~~

1153 ~~(IV) The surcharge is not considered premium and is not~~  
 1154 ~~subject to commissions, fees, or premium taxes. However, failure~~  
 1155 ~~to pay the surcharge shall be treated as failure to pay premium.~~

1156 h.k. If the amount of any assessments or surcharges  
 1157 collected from corporation policyholders, assessable insurers or  
 1158 their policyholders, or assessable insureds exceeds the amount  
 1159 of the deficits, such excess amounts shall be remitted to and  
 1160 retained by the corporation in a reserve to be used by the  
 1161 corporation, as determined by the board of governors and  
 1162 approved by the office, to pay claims or reduce any past,  
 1163 present, or future plan-year deficits or to reduce outstanding  
 1164 debt.

1165 ~~4. The Citizens account, if established by the corporation~~  
 1166 ~~pursuant to sub-subparagraph 2.b., is authorized to provide:~~

1167 ~~a. Personal residential policies that provide~~  
 1168 ~~comprehensive, multiperil coverage on risks that are not located~~  
 1169 ~~in areas eligible for coverage by the Florida Windstorm~~  
 1170 ~~Underwriting Association, as those areas were defined on January~~  
 1171 ~~1, 2002, and for policies that do not provide coverage for the~~  
 1172 ~~peril of wind on risks that are located in such areas;~~

1173 ~~b. Commercial residential and commercial nonresidential~~  
 1174 ~~policies that provide coverage for basic property perils on~~  
 1175 ~~risks that are not located in areas eligible for coverage by the~~

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1176 ~~Florida Windstorm Underwriting Association, as those areas were~~  
1177 ~~defined on January 1, 2002, and for policies that do not provide~~  
1178 ~~coverage for the peril of wind on risks that are located in such~~  
1179 ~~areas; and~~

1180 ~~e. Personal residential policies and commercial~~  
1181 ~~residential and commercial nonresidential property policies that~~  
1182 ~~provide coverage for the peril of wind on risks that are located~~  
1183 ~~in areas eligible for coverage by the Florida Windstorm~~  
1184 ~~Underwriting Association, as those areas were defined on January~~  
1185 ~~1, 2002. The corporation may offer policies that provide~~  
1186 ~~multiperil coverage and shall offer policies that provide~~  
1187 ~~coverage only for the peril of wind for risks located in areas~~  
1188 ~~eligible for coverage by the Florida Windstorm Underwriting~~  
1189 ~~Association, as those areas were defined on January 1, 2002. The~~  
1190 ~~corporation may not offer new commercial residential policies~~  
1191 ~~providing multiperil coverage, but shall continue to offer~~  
1192 ~~commercial residential wind-only policies, and may offer~~  
1193 ~~commercial residential policies excluding wind. However, the~~  
1194 ~~corporation may continue to renew a commercial residential~~  
1195 ~~multiperil policy on a building that was insured by the~~  
1196 ~~corporation on June 30, 2014, under a multiperil policy. In~~  
1197 ~~issuing multiperil coverage under this sub-subparagraph, the~~  
1198 ~~corporation may use its approved policy forms and rates for~~  
1199 ~~risks located in areas not eligible for coverage by the Florida~~  
1200 ~~Windstorm Underwriting Association as those areas were defined~~



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1201 ~~on January 1, 2002, and for policies that do not provide~~  
 1202 ~~coverage for the peril of wind on risks that are located in such~~  
 1203 ~~areas. An applicant or insured who is eligible to purchase a~~  
 1204 ~~multiperil policy from the corporation may purchase a multiperil~~  
 1205 ~~policy from an authorized insurer without prejudice to the~~  
 1206 ~~applicant's or insured's eligibility to prospectively purchase a~~  
 1207 ~~policy that provides coverage only for the peril of wind from~~  
 1208 ~~the corporation. An applicant or insured who is eligible for a~~  
 1209 ~~corporation policy that provides coverage only for the peril of~~  
 1210 ~~wind may elect to purchase or retain such policy and also~~  
 1211 ~~purchase or retain coverage excluding wind from an authorized~~  
 1212 ~~insurer without prejudice to the applicant's or insured's~~  
 1213 ~~eligibility to prospectively purchase a policy that provides~~  
 1214 ~~multiperil coverage from the corporation. The following~~  
 1215 ~~policies, which provide coverage only for the peril of wind,~~  
 1216 ~~must also include quota share primary insurance under~~  
 1217 ~~subparagraph (c)2.: Personal residential policies and commercial~~  
 1218 ~~residential and commercial nonresidential property policies that~~  
 1219 ~~provide coverage for the peril of wind on risks that are located~~  
 1220 ~~in areas eligible for coverage by the Florida Windstorm~~  
 1221 ~~Underwriting Association, as those areas were defined on January~~  
 1222 ~~1, 2002; policies that provide multiperil coverage, if offered~~  
 1223 ~~by the corporation, and policies that provide coverage only for~~  
 1224 ~~the peril of wind for risks located in areas eligible for~~  
 1225 ~~coverage by the Florida Windstorm Underwriting Association, as~~

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1226 ~~those areas were defined on January 1, 2002; commercial~~  
 1227 ~~residential wind-only policies; commercial residential policies~~  
 1228 ~~excluding wind, if offered by the corporation; and commercial~~  
 1229 ~~residential multiperil policies on a building that was insured~~  
 1230 ~~by the corporation on June 30, 2014. The area eligible for~~  
 1231 ~~coverage with the corporation under this sub-subparagraph~~  
 1232 ~~includes the area within Port Canaveral, which is bordered on~~  
 1233 ~~the south by the City of Cape Canaveral, bordered on the west by~~  
 1234 ~~the Banana River, and bordered on the north by Federal~~  
 1235 ~~Government property.~~

1236 ~~5. With respect to a deficit in the Citizens account:~~

1237 ~~a. Upon a determination by the board of governors that the~~  
 1238 ~~Citizens account has a projected deficit, the board shall levy a~~  
 1239 ~~Citizens policyholder surcharge against all policyholders of the~~  
 1240 ~~corporation.~~

1241 ~~(I) The surcharge shall be levied as a uniform percentage~~  
 1242 ~~of the premium for the policy of up to 15 percent of such~~  
 1243 ~~premium, which funds shall be used to offset the deficit.~~

1244 ~~(II) The surcharge is payable upon cancellation or~~  
 1245 ~~termination of the policy, upon renewal of the policy, or upon~~  
 1246 ~~issuance of a new policy by the corporation within the first 12~~  
 1247 ~~months after the date of the levy or the period of time~~  
 1248 ~~necessary to fully collect the surcharge amount.~~

1249 ~~(III) The surcharge is not considered premium and is not~~  
 1250 ~~subject to commissions, fees, or premium taxes. However, failure~~

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1251 ~~to pay the surcharge shall be treated as failure to pay premium.~~  
 1252 ~~b. After accounting for the Citizens policyholder~~  
 1253 ~~surcharge imposed under sub-subparagraph a., the remaining~~  
 1254 ~~projected deficit incurred in the Citizens account in a~~  
 1255 ~~particular calendar year shall be recovered through emergency~~  
 1256 ~~assessments under sub-subparagraph c.~~  
 1257 ~~e. Upon a determination by the board of governors that a~~  
 1258 ~~projected deficit in the Citizens account exceeds the amount~~  
 1259 ~~that is expected to be recovered through surcharges under sub-~~  
 1260 ~~subparagraph a., the board, after verification by the office,~~  
 1261 ~~shall levy emergency assessments for as many years as necessary~~  
 1262 ~~to cover the deficits, to be collected by assessable insurers~~  
 1263 ~~and the corporation and collected from assessable insureds upon~~  
 1264 ~~issuance or renewal of policies for subject lines of business,~~  
 1265 ~~excluding National Flood Insurance Program policies. The amount~~  
 1266 ~~collected in a particular year must be a uniform percentage of~~  
 1267 ~~that year's direct written premium for subject lines of business~~  
 1268 ~~and the Citizens account, National Flood Insurance Program~~  
 1269 ~~policy premiums, as annually determined by the board and~~  
 1270 ~~verified by the office. The office shall verify the arithmetic~~  
 1271 ~~calculations involved in the board's determination within 30~~  
 1272 ~~days after receipt of the information on which the determination~~  
 1273 ~~was based. The office shall notify assessable insurers and the~~  
 1274 ~~Florida Surplus Lines Service Office of the date on which~~  
 1275 ~~assessable insurers shall begin to collect and assessable~~

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1276 ~~insureds shall begin to pay such assessment. The date must be at~~  
 1277 ~~least 90 days after the date the corporation levies emergency~~  
 1278 ~~assessments pursuant to this sub-subparagraph. Notwithstanding~~  
 1279 ~~any other law, the corporation and each assessable insurer that~~  
 1280 ~~writes subject lines of business shall collect emergency~~  
 1281 ~~assessments from its policyholders without such obligation being~~  
 1282 ~~affected by any credit, limitation, exemption, or deferment.~~  
 1283 ~~Emergency assessments levied by the corporation on assessable~~  
 1284 ~~insureds shall be collected by the surplus lines agent at the~~  
 1285 ~~time the surplus lines agent collects the surplus lines tax~~  
 1286 ~~required by s. 626.932 and paid to the Florida Surplus Lines~~  
 1287 ~~Service Office at the time the surplus lines agent pays the~~  
 1288 ~~surplus lines tax to that office. The emergency assessments~~  
 1289 ~~collected shall be transferred directly to the corporation on a~~  
 1290 ~~periodic basis as determined by the corporation and held by the~~  
 1291 ~~corporation solely in the Citizens account. The aggregate amount~~  
 1292 ~~of emergency assessments levied for the Citizens account in any~~  
 1293 ~~calendar year may be less than, but may not exceed the greater~~  
 1294 ~~of, 10 percent of the amount needed to cover the deficit, plus~~  
 1295 ~~interest, fees, commissions, required reserves, and other costs~~  
 1296 ~~associated with financing the original deficit or 10 percent of~~  
 1297 ~~the aggregate statewide direct written premium for subject lines~~  
 1298 ~~of business and the Citizens accounts for the prior year, plus~~  
 1299 ~~interest, fees, commissions, required reserves, and other costs~~  
 1300 ~~associated with financing the deficit.~~

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1301 ~~d. The corporation may pledge the proceeds of assessments,~~  
 1302 ~~projected recoveries from the Florida Hurricane Catastrophe~~  
 1303 ~~Fund, other insurance and reinsurance recoverables, policyholder~~  
 1304 ~~surcharges and other surcharges, and other funds available to~~  
 1305 ~~the corporation as the source of revenue for and to secure bonds~~  
 1306 ~~issued under paragraph (q), bonds or other indebtedness issued~~  
 1307 ~~under subparagraph (c)3., or lines of credit or other financing~~  
 1308 ~~mechanisms issued or created under this subsection; or to retire~~  
 1309 ~~any other debt incurred as a result of deficits or events giving~~  
 1310 ~~rise to deficits, or in any other way that the board determines~~  
 1311 ~~will efficiently recover such deficits. The purpose of the lines~~  
 1312 ~~of credit or other financing mechanisms is to provide additional~~  
 1313 ~~resources to assist the corporation in covering claims and~~  
 1314 ~~expenses attributable to a catastrophe. As used in this~~  
 1315 ~~subsection, the term "assessments" includes emergency~~  
 1316 ~~assessments under sub-subparagraph c. Emergency assessments~~  
 1317 ~~collected under sub-subparagraph c. are not part of an insurer's~~  
 1318 ~~rates, are not premium, and are not subject to premium tax,~~  
 1319 ~~fees, or commissions; however, failure to pay the emergency~~  
 1320 ~~assessment shall be treated as failure to pay premium. The~~  
 1321 ~~emergency assessments shall continue as long as any bonds issued~~  
 1322 ~~or other indebtedness incurred with respect to a deficit for~~  
 1323 ~~which the assessment was imposed remain outstanding, unless~~  
 1324 ~~adequate provision has been made for the payment of such bonds~~  
 1325 ~~or other indebtedness pursuant to the documents governing such~~

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1326 ~~bonds or indebtedness.~~

1327 ~~e. As used in this subsection and for purposes of any~~

1328 ~~deficit incurred on or after January 25, 2007, the term "subject~~

1329 ~~lines of business" means insurance written by assessable~~

1330 ~~insurers or procured by assessable insureds for all property and~~

1331 ~~casualty lines of business in this state, but not including~~

1332 ~~workers' compensation or medical malpractice. As used in this~~

1333 ~~sub-subparagraph, the term "property and casualty lines of~~

1334 ~~business" includes all lines of business identified on Form 2,~~

1335 ~~Exhibit of Premiums and Losses, in the annual statement required~~

1336 ~~of authorized insurers under s. 624.424 and any rule adopted~~

1337 ~~under this section, except for those lines identified as~~

1338 ~~accident and health insurance and except for policies written~~

1339 ~~under the National Flood Insurance Program or the Federal Crop~~

1340 ~~Insurance Program. For purposes of this sub-subparagraph, the~~

1341 ~~term "workers' compensation" includes both workers' compensation~~

1342 ~~insurance and excess workers' compensation insurance.~~

1343 ~~f. The Florida Surplus Lines Service Office shall annually~~

1344 ~~determine the aggregate statewide written premium in subject~~

1345 ~~lines of business procured by assessable insureds and report~~

1346 ~~that information to the corporation in a form and at a time the~~

1347 ~~corporation specifies to ensure that the corporation can meet~~

1348 ~~the requirements of this subsection and the corporation's~~

1349 ~~financing obligations.~~

1350 ~~g. The Florida Surplus Lines Service Office shall verify~~

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1351 ~~the proper application by surplus lines agents of assessment~~  
 1352 ~~percentages for emergency assessments levied under this~~  
 1353 ~~subparagraph on assessable insureds and assist the corporation~~  
 1354 ~~in ensuring the accurate, timely collection and payment of~~  
 1355 ~~assessments by surplus lines agents as required by the~~  
 1356 ~~corporation.~~

1357 ~~h. If the amount of any assessments or surcharges~~  
 1358 ~~collected from corporation policyholders, assessable insurers or~~  
 1359 ~~their policyholders, or assessable insureds exceeds the amount~~  
 1360 ~~of the deficits, such excess amounts shall be remitted to and~~  
 1361 ~~retained by the corporation in a reserve to be used by the~~  
 1362 ~~corporation, as determined by the board of governors and~~  
 1363 ~~approved by the office, to pay claims or reduce any past,~~  
 1364 ~~present, or future plan-year deficits or to reduce outstanding~~  
 1365 ~~debt.~~

1366 (c) The corporation's plan of operation:

1367 1. Must provide for adoption of residential property and  
 1368 casualty insurance policy forms and commercial residential and  
 1369 nonresidential property insurance forms, which must be approved  
 1370 by the office before use. The corporation shall adopt the  
 1371 following policy forms:

1372 a. Standard personal lines policy forms that are  
 1373 comprehensive multiperil policies providing full coverage of a  
 1374 residential property equivalent to the coverage provided in the  
 1375 private insurance market under an HO-3, HO-4, or HO-6 policy.

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1376           b. Basic personal lines policy forms that are policies  
 1377 similar to an HO-8 policy or a dwelling fire policy that provide  
 1378 coverage meeting the requirements of the secondary mortgage  
 1379 market, but which is more limited than the coverage under a  
 1380 standard policy.

1381           c. Commercial lines residential and nonresidential policy  
 1382 forms that are generally similar to the basic perils of full  
 1383 coverage obtainable for commercial residential structures and  
 1384 commercial nonresidential structures in the admitted voluntary  
 1385 market.

1386           d. Personal lines and commercial lines residential  
 1387 property insurance forms that cover the peril of wind only. The  
 1388 forms are applicable only to residential properties located in  
 1389 areas eligible for coverage by the Florida Windstorm  
 1390 Underwriting Association, as those areas were defined on January  
 1391 1, 2002.

1392           e. Commercial lines nonresidential property insurance  
 1393 forms that cover the peril of wind only. The forms are  
 1394 applicable only to nonresidential properties located in areas  
 1395 eligible for coverage by the Florida Windstorm Underwriting  
 1396 Association, as those areas were defined on January 1, 2002.

1397           f. The corporation may adopt variations of the policy  
 1398 forms listed in sub-subparagraphs a.-e. which contain more  
 1399 restrictive coverage.

1400           g. The corporation shall offer a basic personal lines



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1401 policy similar to an HO-8 policy with dwelling repair based on  
 1402 common construction materials and methods.

1403 2. Must provide that the corporation adopt a program in  
 1404 which the corporation and authorized insurers enter into quota  
 1405 share primary insurance agreements for hurricane coverage, as  
 1406 defined in s. 627.4025(2)(a), for eligible risks, and adopt  
 1407 property insurance forms for eligible risks which cover the  
 1408 peril of wind only.

1409 a. As used in this subsection, the term:

1410 (I) "Approved surplus lines insurer" means an eligible  
 1411 surplus lines insurer that:

1412 (A) Has a financial strength rating of "A-" or higher from  
 1413 A.M. Best Company;

1414 (B) Has a personal lines residential risk program that is  
 1415 managed by a Florida resident surplus lines broker;

1416 (C) Applies to the office to participate in the take-out  
 1417 process to offer coverage to applicants for new coverage from  
 1418 the corporation or current policyholders of the corporation  
 1419 through a take-out plan approved by the office;

1420 (D) Does not, as part of any take-out plan approved by the  
 1421 office, offer coverage on any personal lines residential risk  
 1422 that is a primary residence or has a homestead exemption under  
 1423 chapter 196;

1424 (E) Files rates for review as part of a take-out plan with  
 1425 the office. The office shall review whether the premium is more

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1426 than 20 percent greater than the premium for comparable coverage  
 1427 from the corporation; and

1428 (F) Provides data to the office related to coverage and  
 1429 rates in a format promulgated by the commission.

1430 (III) "Primary residence" means the dwelling that is the  
 1431 policyholder's primary home or is a rental property that is the  
 1432 primary home of the tenant, and which the policyholder or tenant  
 1433 occupies for more than 9 months of each year.

1434 (IV) ~~(I)~~ "Quota share primary insurance" means an  
 1435 arrangement in which the primary hurricane coverage of an  
 1436 eligible risk is provided in specified percentages by the  
 1437 corporation and an authorized insurer. The corporation and  
 1438 authorized insurer are each solely responsible for a specified  
 1439 percentage of hurricane coverage of an eligible risk as set  
 1440 forth in a quota share primary insurance agreement between the  
 1441 corporation and an authorized insurer and the insurance  
 1442 contract. The responsibility of the corporation or authorized  
 1443 insurer to pay its specified percentage of hurricane losses of  
 1444 an eligible risk, as set forth in the agreement, may not be  
 1445 altered by the inability of the other party to pay its specified  
 1446 percentage of losses. Eligible risks that are provided hurricane  
 1447 coverage through a quota share primary insurance arrangement  
 1448 must be provided policy forms that set forth the obligations of  
 1449 the corporation and authorized insurer under the arrangement,  
 1450 clearly specify the percentages of quota share primary insurance

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1451 provided by the corporation and authorized insurer, and  
 1452 conspicuously and clearly state that the authorized insurer and  
 1453 the corporation may not be held responsible beyond their  
 1454 specified percentage of coverage of hurricane losses.

1455 (II) "Eligible risks" means personal lines residential and  
 1456 commercial lines residential risks that meet the underwriting  
 1457 criteria of the corporation and are located in areas that were  
 1458 eligible for coverage by the Florida Windstorm Underwriting  
 1459 Association on January 1, 2002.

1460 b. The corporation may enter into quota share primary  
 1461 insurance agreements with authorized insurers at corporation  
 1462 coverage levels of 90 percent and 50 percent.

1463 c. If the corporation determines that additional coverage  
 1464 levels are necessary to maximize participation in quota share  
 1465 primary insurance agreements by authorized insurers, the  
 1466 corporation may establish additional coverage levels. However,  
 1467 the corporation's quota share primary insurance coverage level  
 1468 may not exceed 90 percent.

1469 d. Any quota share primary insurance agreement entered  
 1470 into between an authorized insurer and the corporation must  
 1471 provide for a uniform specified percentage of coverage of  
 1472 hurricane losses, by county or territory as set forth by the  
 1473 corporation board, for all eligible risks of the authorized  
 1474 insurer covered under the agreement.

1475 e. Any quota share primary insurance agreement entered

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1476 into between an authorized insurer and the corporation is  
1477 subject to review and approval by the office. However, such  
1478 agreement shall be authorized only as to insurance contracts  
1479 entered into between an authorized insurer and an insured who is  
1480 already insured by the corporation for wind coverage.

1481 f. For all eligible risks covered under quota share  
1482 primary insurance agreements, the exposure and coverage levels  
1483 for both the corporation and authorized insurers shall be  
1484 reported by the corporation to the Florida Hurricane Catastrophe  
1485 Fund. For all policies of eligible risks covered under such  
1486 agreements, the corporation and the authorized insurer must  
1487 maintain complete and accurate records for the purpose of  
1488 exposure and loss reimbursement audits as required by fund  
1489 rules. The corporation and the authorized insurer shall each  
1490 maintain duplicate copies of policy declaration pages and  
1491 supporting claims documents.

1492 g. The corporation board shall establish in its plan of  
1493 operation standards for quota share agreements which ensure that  
1494 there is no discriminatory application among insurers as to the  
1495 terms of the agreements, pricing of the agreements, incentive  
1496 provisions if any, and consideration paid for servicing policies  
1497 or adjusting claims.

1498 h. The quota share primary insurance agreement between the  
1499 corporation and an authorized insurer must set forth the  
1500 specific terms under which coverage is provided, including, but

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1501 not limited to, the sale and servicing of policies issued under  
 1502 the agreement by the insurance agent of the authorized insurer  
 1503 producing the business, the reporting of information concerning  
 1504 eligible risks, the payment of premium to the corporation, and  
 1505 arrangements for the adjustment and payment of hurricane claims  
 1506 incurred on eligible risks by the claims adjuster and personnel  
 1507 of the authorized insurer. Entering into a quota sharing  
 1508 insurance agreement between the corporation and an authorized  
 1509 insurer is voluntary and at the discretion of the authorized  
 1510 insurer.

1511 3. May provide that the corporation may employ or  
 1512 otherwise contract with individuals or other entities to provide  
 1513 administrative or professional services that may be appropriate  
 1514 to effectuate the plan. The corporation may borrow funds by  
 1515 issuing bonds or by incurring other indebtedness, and shall have  
 1516 other powers reasonably necessary to effectuate the requirements  
 1517 of this subsection, including, without limitation, the power to  
 1518 issue bonds and incur other indebtedness in order to refinance  
 1519 outstanding bonds or other indebtedness. The corporation may  
 1520 seek judicial validation of its bonds or other indebtedness  
 1521 under chapter 75. The corporation may issue bonds or incur other  
 1522 indebtedness, or have bonds issued on its behalf by a unit of  
 1523 local government pursuant to subparagraph (q)2. in the absence  
 1524 of a hurricane or other weather-related event, upon a  
 1525 determination by the corporation, subject to approval by the

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1526 office, that such action would enable it to efficiently meet the  
 1527 financial obligations of the corporation and that such  
 1528 financings are reasonably necessary to effectuate the  
 1529 requirements of this subsection. The corporation may take all  
 1530 actions needed to facilitate tax-free status for such bonds or  
 1531 indebtedness, including formation of trusts or other affiliated  
 1532 entities. The corporation may pledge assessments, projected  
 1533 recoveries from the Florida Hurricane Catastrophe Fund, other  
 1534 reinsurance recoverables, policyholder surcharges and other  
 1535 surcharges, and other funds available to the corporation as  
 1536 security for bonds or other indebtedness. In recognition of s.  
 1537 10, Art. I of the State Constitution, prohibiting the impairment  
 1538 of obligations of contracts, it is the intent of the Legislature  
 1539 that no action be taken whose purpose is to impair any bond  
 1540 indenture or financing agreement or any revenue source committed  
 1541 by contract to such bond or other indebtedness.

1542 4. Must require that the corporation operate subject to  
 1543 the supervision and approval of a board of governors consisting  
 1544 of nine individuals who are residents of this state and who are  
 1545 from different geographical areas of the state, one of whom is  
 1546 appointed by the Governor and serves solely to advocate on  
 1547 behalf of the consumer. The appointment of a consumer  
 1548 representative by the Governor is deemed to be within the scope  
 1549 of the exemption provided in s. 112.313(7) (b) and is in addition  
 1550 to the appointments authorized under sub-subparagraph a.

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1551           a. The Governor, the Chief Financial Officer, the  
 1552 President of the Senate, and the Speaker of the House of  
 1553 Representatives shall each appoint two members of the board. At  
 1554 least one of the two members appointed by each appointing  
 1555 officer must have demonstrated expertise in insurance and be  
 1556 deemed to be within the scope of the exemption provided in s.  
 1557 112.313(7)(b). The Chief Financial Officer shall designate one  
 1558 of the appointees as chair. All board members serve at the  
 1559 pleasure of the appointing officer. All members of the board are  
 1560 subject to removal at will by the officers who appointed them.  
 1561 All board members, including the chair, must be appointed to  
 1562 serve for 3-year terms beginning annually on a date designated  
 1563 by the plan. However, for the first term beginning on or after  
 1564 July 1, 2009, each appointing officer shall appoint one member  
 1565 of the board for a 2-year term and one member for a 3-year term.  
 1566 A board vacancy shall be filled for the unexpired term by the  
 1567 appointing officer. The Chief Financial Officer shall appoint a  
 1568 technical advisory group to provide information and advice to  
 1569 the board in connection with the board's duties under this  
 1570 subsection. The executive director and senior managers of the  
 1571 corporation shall be engaged by the board and serve at the  
 1572 pleasure of the board. Any executive director appointed on or  
 1573 after July 1, 2006, is subject to confirmation by the Senate.  
 1574 The executive director is responsible for employing other staff  
 1575 as the corporation may require, subject to review and

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1576 concurrence by the board.

1577       b. The board shall create a Market Accountability Advisory  
 1578 Committee to assist the corporation in developing awareness of  
 1579 its rates and its customer and agent service levels in  
 1580 relationship to the voluntary market insurers writing similar  
 1581 coverage.

1582       (I) The members of the advisory committee consist of the  
 1583 following 11 persons, one of whom must be elected chair by the  
 1584 members of the committee: four representatives, one appointed by  
 1585 the Florida Association of Insurance Agents, one by the Florida  
 1586 Association of Insurance and Financial Advisors, one by the  
 1587 Professional Insurance Agents of Florida, and one by the Latin  
 1588 American Association of Insurance Agencies; three  
 1589 representatives appointed by the insurers with the three highest  
 1590 voluntary market share of residential property insurance  
 1591 business in the state; one representative from the Office of  
 1592 Insurance Regulation; one consumer appointed by the board who is  
 1593 insured by the corporation at the time of appointment to the  
 1594 committee; one representative appointed by the Florida  
 1595 Association of Realtors; and one representative appointed by the  
 1596 Florida Bankers Association. All members shall be appointed to  
 1597 3-year terms and may serve for consecutive terms.

1598       (II) The committee shall report to the corporation at each  
 1599 board meeting on insurance market issues which may include rates  
 1600 and rate competition with the voluntary market; service,



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1601 including policy issuance, claims processing, and general  
1602 responsiveness to policyholders, applicants, and agents; and  
1603 matters relating to depopulation.

1604 5. Must provide a procedure for determining the  
1605 eligibility of a risk for coverage, as follows:

1606 a. Subject to s. 627.3517, with respect to personal lines  
1607 residential risks that are primary residences, if the risk is  
1608 offered coverage from an authorized insurer at the insurer's  
1609 approved rate under a standard policy including wind coverage  
1610 or, if consistent with the insurer's underwriting rules as filed  
1611 with the office, a basic policy including wind coverage, for a  
1612 new application to the corporation for coverage, the risk is not  
1613 eligible for any policy issued by the corporation unless the  
1614 premium for coverage from the authorized insurer is more than 20  
1615 percent greater than the premium for comparable coverage from  
1616 the corporation. Whenever an offer of coverage for a personal  
1617 lines residential risk that is a primary residence is received  
1618 for a policyholder of the corporation at renewal from an  
1619 authorized insurer, if the offer is equal to or less than the  
1620 corporation's renewal premium for comparable coverage, the risk  
1621 is not eligible for coverage with the corporation for policies  
1622 that renew before April 1, 2023; for policies that renew on or  
1623 after that date, the risk is not eligible for coverage with the  
1624 corporation unless the premium for coverage from the authorized  
1625 insurer is more than 20 percent greater than the corporation's

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1626 renewal premium for comparable coverage. If the risk is not able  
1627 to obtain such offer, the risk is eligible for a standard policy  
1628 including wind coverage or a basic policy including wind  
1629 coverage issued by the corporation; however, if the risk could  
1630 not be insured under a standard policy including wind coverage  
1631 regardless of market conditions, the risk is eligible for a  
1632 basic policy including wind coverage unless rejected under  
1633 subparagraph 8. The corporation shall determine the type of  
1634 policy to be provided on the basis of objective standards  
1635 specified in the underwriting manual and based on generally  
1636 accepted underwriting practices. A policyholder removed from the  
1637 corporation through an assumption agreement does not remain  
1638 eligible for coverage from the corporation after the end of the  
1639 policy term. However, any policy removed from the corporation  
1640 through an assumption agreement remains on the corporation's  
1641 policy forms through the end of the policy term. This sub-  
1642 subparagraph applies only to risks that are primary residences.

1643 (I) If the risk accepts an offer of coverage through the  
1644 market assistance plan or through a mechanism established by the  
1645 corporation other than a plan established by s. 627.3518, before  
1646 a policy is issued to the risk by the corporation or during the  
1647 first 30 days of coverage by the corporation, and the producing  
1648 agent who submitted the application to the plan or to the  
1649 corporation is not currently appointed by the insurer, the  
1650 insurer shall:

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1651 (A) Pay to the producing agent of record of the policy for  
 1652 the first year, an amount that is the greater of the insurer's  
 1653 usual and customary commission for the type of policy written or  
 1654 a fee equal to the usual and customary commission of the  
 1655 corporation; or

1656 (B) Offer to allow the producing agent of record of the  
 1657 policy to continue servicing the policy for at least 1 year and  
 1658 offer to pay the agent the greater of the insurer's or the  
 1659 corporation's usual and customary commission for the type of  
 1660 policy written.

1661  
 1662 If the producing agent is unwilling or unable to accept  
 1663 appointment, the new insurer shall pay the agent in accordance  
 1664 with sub-sub-sub-subparagraph (A).

1665 (II) If the corporation enters into a contractual  
 1666 agreement for a take-out plan, the producing agent of record of  
 1667 the corporation policy is entitled to retain any unearned  
 1668 commission on the policy, and the insurer shall:

1669 (A) Pay to the producing agent of record, for the first  
 1670 year, an amount that is the greater of the insurer's usual and  
 1671 customary commission for the type of policy written or a fee  
 1672 equal to the usual and customary commission of the corporation;  
 1673 or

1674 (B) Offer to allow the producing agent of record to  
 1675 continue servicing the policy for at least 1 year and offer to

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1676 pay the agent the greater of the insurer's or the corporation's  
1677 usual and customary commission for the type of policy written.  
1678

1679 If the producing agent is unwilling or unable to accept  
1680 appointment, the new insurer shall pay the agent in accordance  
1681 with sub-sub-sub-subparagraph (A).

1682 b. Subject to s. 627.3517, with respect to personal lines  
1683 residential risks that are not primary residences, if the risk  
1684 is offered coverage from an authorized insurer at the insurer's  
1685 approved rate or from an approved surplus lines insurer at the  
1686 rate approved by the office as part of such surplus lines  
1687 insurer's take-out plan for a new application to the corporation  
1688 for coverage, the risk is not eligible for any policy issued by  
1689 the corporation unless the premium for coverage from the  
1690 authorized insurer or approved surplus lines insurer is more  
1691 than 20 percent greater than the premium for comparable coverage  
1692 from the corporation. Whenever an offer of coverage for a  
1693 personal lines residential risk that is not a primary residence  
1694 is received for a policyholder of the corporation at renewal  
1695 from an authorized insurer at the insurer's approved rate or an  
1696 approved surplus lines insurer at the rate approved by the  
1697 office as part of such insurer's take-out plan, the risk is not  
1698 eligible for coverage with the corporation unless the premium  
1699 for coverage from the authorized insurer or approved surplus  
1700 lines insurer is more than 20 percent greater than the

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1701 corporation's renewal premium for comparable coverage for  
1702 policies that renew on or after July 1, 2024. If the risk is not  
1703 able to obtain such offer, the risk is eligible for a standard  
1704 policy including wind coverage or a basic policy including wind  
1705 coverage issued by the corporation. If the risk could not be  
1706 insured under a standard policy including wind coverage  
1707 regardless of market conditions, the risk is eligible for a  
1708 basic policy including wind coverage unless rejected under  
1709 subparagraph 8. The corporation shall determine the type of  
1710 policy to be provided on the basis of objective standards  
1711 specified in the underwriting manual and based on generally  
1712 accepted underwriting practices. A policyholder removed from the  
1713 corporation through an assumption agreement does not remain  
1714 eligible for coverage from the corporation after the end of the  
1715 policy term. However, any policy removed from the corporation  
1716 through an assumption agreement remains on the corporation's  
1717 policy forms through the end of the policy term.

1718 (I) If the risk accepts an offer of coverage through the  
1719 market assistance plan or through a mechanism established by the  
1720 corporation other than a plan established by s. 627.3518, before  
1721 a policy is issued to the risk by the corporation or during the  
1722 first 30 days of coverage by the corporation, and the producing  
1723 agent who submitted the application to the plan or to the  
1724 corporation is not currently appointed by the insurer, the  
1725 insurer must:

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1726 (A) Pay to the producing agent of record of the policy,  
 1727 for the first year, an amount that is the greater of the  
 1728 insurer's usual and customary commission for the type of policy  
 1729 written or a fee equal to the usual and customary commission of  
 1730 the corporation; or

1731 (B) Offer to allow the producing agent of record of the  
 1732 policy to continue servicing the policy for at least 1 year and  
 1733 offer to pay the agent the greater of the insurer's or the  
 1734 corporation's usual and customary commission for the type of  
 1735 policy written.

1736  
 1737 If the producing agent is unwilling or unable to accept  
 1738 appointment, the new insurer must pay the agent in accordance  
 1739 with sub-sub-sub-subparagraph (A).

1740 (II) If the corporation enters into a contractual  
 1741 agreement for a take-out plan, the producing agent of record of  
 1742 the corporation policy is entitled to retain any unearned  
 1743 commission on the policy, and the insurer must:

1744 (A) Pay to the producing agent of record, for the first  
 1745 year, an amount that is the greater of the insurer's usual and  
 1746 customary commission for the type of policy written or a fee  
 1747 equal to the usual and customary commission of the corporation;  
 1748 or

1749 (B) Offer to allow the producing agent of record to  
 1750 continue servicing the policy for at least 1 year and offer to

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1751 pay the agent the greater of the insurer's or the corporation's  
 1752 usual and customary commission for the type of policy written.

1753  
 1754 If the producing agent is unwilling or unable to accept  
 1755 appointment, the new insurer shall pay the agent in accordance  
 1756 with sub-sub-sub-subparagraph (A).

1757 ~~c.b.~~ With respect to commercial lines residential risks,  
 1758 for a new application to the corporation for coverage, if the  
 1759 risk is offered coverage under a policy including wind coverage  
 1760 from an authorized insurer at its approved rate, the risk is not  
 1761 eligible for a policy issued by the corporation unless the  
 1762 premium for coverage from the authorized insurer is more than 20  
 1763 percent greater than the premium for comparable coverage from  
 1764 the corporation. Whenever an offer of coverage for a commercial  
 1765 lines residential risk is received for a policyholder of the  
 1766 corporation at renewal from an authorized insurer, the risk is  
 1767 not eligible for coverage with the corporation unless the  
 1768 premium for coverage from the authorized insurer is more than 20  
 1769 percent greater than the corporation's renewal premium for  
 1770 comparable coverage. If the risk is not able to obtain any such  
 1771 offer, the risk is eligible for a policy including wind coverage  
 1772 issued by the corporation. A policyholder removed from the  
 1773 corporation through an assumption agreement remains eligible for  
 1774 coverage from the corporation until the end of the policy term.  
 1775 However, any policy removed from the corporation through an

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1776 assumption agreement remains on the corporation's policy forms  
 1777 through the end of the policy term.

1778 (I) If the risk accepts an offer of coverage through the  
 1779 market assistance plan or through a mechanism established by the  
 1780 corporation other than a plan established by s. 627.3518, before  
 1781 a policy is issued to the risk by the corporation or during the  
 1782 first 30 days of coverage by the corporation, and the producing  
 1783 agent who submitted the application to the plan or the  
 1784 corporation is not currently appointed by the insurer, the  
 1785 insurer shall:

1786 (A) Pay to the producing agent of record of the policy,  
 1787 for the first year, an amount that is the greater of the  
 1788 insurer's usual and customary commission for the type of policy  
 1789 written or a fee equal to the usual and customary commission of  
 1790 the corporation; or

1791 (B) Offer to allow the producing agent of record of the  
 1792 policy to continue servicing the policy for at least 1 year and  
 1793 offer to pay the agent the greater of the insurer's or the  
 1794 corporation's usual and customary commission for the type of  
 1795 policy written.

1796  
 1797 If the producing agent is unwilling or unable to accept  
 1798 appointment, the new insurer shall pay the agent in accordance  
 1799 with sub-sub-sub-subparagraph (A).

1800 (II) If the corporation enters into a contractual



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1801 agreement for a take-out plan, the producing agent of record of  
 1802 the corporation policy is entitled to retain any unearned  
 1803 commission on the policy, and the insurer shall:

1804 (A) Pay to the producing agent of record, for the first  
 1805 year, an amount that is the greater of the insurer's usual and  
 1806 customary commission for the type of policy written or a fee  
 1807 equal to the usual and customary commission of the corporation;  
 1808 or

1809 (B) Offer to allow the producing agent of record to  
 1810 continue servicing the policy for at least 1 year and offer to  
 1811 pay the agent the greater of the insurer's or the corporation's  
 1812 usual and customary commission for the type of policy written.

1813  
 1814 If the producing agent is unwilling or unable to accept  
 1815 appointment, the new insurer shall pay the agent in accordance  
 1816 with sub-sub-sub-subparagraph (A).

1817 ~~d.e.~~ For purposes of determining comparable coverage under  
 1818 sub-subparagraphs a., ~~and b.~~, and c., the comparison must be  
 1819 based on those forms and coverages that are reasonably  
 1820 comparable. The corporation may rely on a determination of  
 1821 comparable coverage and premium made by the producing agent who  
 1822 submits the application to the corporation, made in the agent's  
 1823 capacity as the corporation's agent. For purposes of comparing  
 1824 the premium for comparable coverage under sub-subparagraphs a.,  
 1825 ~~and b.~~, and c. premium includes any surcharge or assessment that

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1826 is actually applied to such policy. A comparison may be made  
1827 solely of the premium with respect to the main building or  
1828 structure only on the following basis: the same Coverage A or  
1829 other building limits; the same percentage hurricane deductible  
1830 that applies on an annual basis or that applies to each  
1831 hurricane for commercial residential property; the same  
1832 percentage of ordinance and law coverage, if the same limit is  
1833 offered by both the corporation and the authorized insurer or  
1834 the approved surplus line insurer; the same mitigation credits,  
1835 to the extent the same types of credits are offered both by the  
1836 corporation and the authorized insurer or the approved surplus  
1837 lines insurer; the same method for loss payment, such as  
1838 replacement cost or actual cash value, if the same method is  
1839 offered both by the corporation and the authorized insurer in  
1840 accordance with underwriting rules; and any other form or  
1841 coverage that is reasonably comparable as determined by the  
1842 board. If an application is submitted to the corporation for  
1843 wind-only coverage on a risk that is located in an area eligible  
1844 for coverage by the Florida Windstorm Underwriting Association,  
1845 as that area was defined on January 1, 2002, the premium for the  
1846 corporation's wind-only policy plus the premium for the ex-wind  
1847 policy that is offered by an authorized insurer to the applicant  
1848 must be compared to the premium for multiperil coverage offered  
1849 by an authorized insurer, subject to the standards for  
1850 comparison specified in this subparagraph. If the corporation or

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1851 the applicant requests from the authorized insurer or the  
 1852 approved surplus lines insurer a breakdown of the premium of the  
 1853 offer by types of coverage so that a comparison may be made by  
 1854 the corporation or its agent and the authorized insurer or the  
 1855 approved surplus lines insurer refuses or is unable to provide  
 1856 such information, the corporation may treat the offer as not  
 1857 being an offer of coverage from an authorized insurer at the  
 1858 insurer's approved rate.

1859 6. Must include rules for classifications of risks and  
 1860 rates.

1861 7. Must provide that if premium and investment income:  
 1862 ~~a.~~ for the Citizens ~~an~~ account, which are attributable to  
 1863 a particular calendar year, are in excess of projected losses  
 1864 and expenses for the Citizens account attributable to that year,  
 1865 such excess shall be held in surplus in the Citizens account.  
 1866 Such surplus must be available to defray deficits in the  
 1867 Citizens ~~that~~ account as to future years and used for that  
 1868 purpose before assessing assessable insurers and assessable  
 1869 insureds as to any calendar year, ~~or~~

1870 ~~b. For the Citizens account, if established by the~~  
 1871 ~~corporation, which are attributable to a particular calendar~~  
 1872 ~~year are in excess of projected losses and expenses for the~~  
 1873 ~~Citizens account attributable to that year, such excess shall be~~  
 1874 ~~held in surplus in the Citizens account. Such surplus must be~~  
 1875 ~~available to defray deficits in the Citizens account as to~~

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1876 ~~future years and used for that purpose before assessing~~  
 1877 ~~assessable insurers and assessable insureds as to any calendar~~  
 1878 ~~year.~~

1879       8. Must provide objective criteria and procedures to be  
 1880 uniformly applied to all applicants in determining whether an  
 1881 individual risk is so hazardous as to be uninsurable. In making  
 1882 this determination and in establishing the criteria and  
 1883 procedures, the following must be considered:

1884           a. Whether the likelihood of a loss for the individual  
 1885 risk is substantially higher than for other risks of the same  
 1886 class; and

1887           b. Whether the uncertainty associated with the individual  
 1888 risk is such that an appropriate premium cannot be determined.

1889  
 1890 The acceptance or rejection of a risk by the corporation shall  
 1891 be construed as the private placement of insurance, and the  
 1892 provisions of chapter 120 do not apply.

1893       9. Must provide that the corporation make its best efforts  
 1894 to procure catastrophe reinsurance at reasonable rates, to cover  
 1895 its projected 100-year probable maximum loss as determined by  
 1896 the board of governors. If catastrophe reinsurance is not  
 1897 available at reasonable rates, the corporation need not purchase  
 1898 it, but the corporation shall include the costs of reinsurance  
 1899 to cover its projected 100-year probable maximum loss in its  
 1900 rate calculations even if it does not purchase catastrophe

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1901 reinsurance.

1902           10. The policies issued by the corporation must provide  
 1903 that if the corporation or the market assistance plan obtains an  
 1904 offer from an authorized insurer to cover the risk at its  
 1905 approved rates, the risk is no longer eligible for renewal  
 1906 through the corporation, except as otherwise provided in this  
 1907 subsection.

1908           11. Corporation policies and applications must include a  
 1909 notice that the corporation policy could, under this section, be  
 1910 replaced with a policy issued by an authorized insurer which  
 1911 does not provide coverage identical to the coverage provided by  
 1912 the corporation. The notice must also specify that acceptance of  
 1913 corporation coverage creates a conclusive presumption that the  
 1914 applicant or policyholder is aware of this potential.

1915           12. May establish, subject to approval by the office,  
 1916 different eligibility requirements and operational procedures  
 1917 for any line or type of coverage for any specified county or  
 1918 area if the board determines that such changes are justified due  
 1919 to the voluntary market being sufficiently stable and  
 1920 competitive in such area or for such line or type of coverage  
 1921 and that consumers who, in good faith, are unable to obtain  
 1922 insurance through the voluntary market through ordinary methods  
 1923 continue to have access to coverage from the corporation. If  
 1924 coverage is sought in connection with a real property transfer,  
 1925 the requirements and procedures may not provide an effective

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1926 | date of coverage later than the date of the closing of the  
 1927 | transfer as established by the transferor, the transferee, and,  
 1928 | if applicable, the lender.

1929 |       13. ~~Must provide that:~~

1930 |       a. ~~With respect to the coastal account, any assessable~~  
 1931 | ~~insurer with a surplus as to policyholders of \$25 million or~~  
 1932 | ~~less writing 25 percent or more of its total countrywide~~  
 1933 | ~~property insurance premiums in this state may petition the~~  
 1934 | ~~office, within the first 90 days of each calendar year, to~~  
 1935 | ~~qualify as a limited apportionment company. A regular assessment~~  
 1936 | ~~levied by the corporation on a limited apportionment company for~~  
 1937 | ~~a deficit incurred by the corporation for the coastal account~~  
 1938 | ~~may be paid to the corporation on a monthly basis as the~~  
 1939 | ~~assessments are collected by the limited apportionment company~~  
 1940 | ~~from its insureds, but a limited apportionment company must~~  
 1941 | ~~begin collecting the regular assessments not later than 90 days~~  
 1942 | ~~after the regular assessments are levied by the corporation, and~~  
 1943 | ~~the regular assessments must be paid in full within 15 months~~  
 1944 | ~~after being levied by the corporation. A limited apportionment~~  
 1945 | ~~company shall collect from its policyholders any emergency~~  
 1946 | ~~assessment imposed under sub-subparagraph (b)3.c. The plan must~~  
 1947 | ~~provide that, if the office determines that any regular~~  
 1948 | ~~assessment will result in an impairment of the surplus of a~~  
 1949 | ~~limited apportionment company, the office may direct that all or~~  
 1950 | ~~part of such assessment be deferred as provided in subparagraph~~

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1951 ~~(q)4. However, an emergency assessment to be collected from~~  
 1952 ~~policyholders under sub-subparagraph (b)3.c. may not be limited~~  
 1953 ~~or deferred; or~~

1954 ~~b. With respect to the Citizens account, if established by~~  
 1955 ~~the corporation pursuant to sub-subparagraph (b)2.b., any~~  
 1956 ~~assessable insurer with a surplus as to policyholders of \$25~~  
 1957 ~~million or less and writing 25 percent or more of its total~~  
 1958 ~~countrywide property insurance premiums in this state may~~  
 1959 ~~petition the office, within the first 90 days of each calendar~~  
 1960 ~~year, to qualify as a limited apportionment company. A limited~~  
 1961 ~~apportionment company shall collect from its policyholders any~~  
 1962 ~~emergency assessment imposed under sub-subparagraph (b)5.c. An~~  
 1963 ~~emergency assessment to be collected from policyholders under~~  
 1964 ~~sub-subparagraph (b)5.c. may not be limited or deferred.~~

1965 14. Must provide that the corporation appoint as its  
 1966 licensed agents only those agents who throughout such  
 1967 appointments also hold an appointment as defined in s. 626.015  
 1968 by at least three insurers ~~an insurer~~ who are ~~is~~ authorized to  
 1969 write and are ~~is~~ actually writing or renewing personal lines  
 1970 residential property coverage, commercial residential property  
 1971 coverage, or commercial nonresidential property coverage within  
 1972 the state.

1973 ~~14.15.~~ Must provide a premium payment plan option to its  
 1974 policyholders which, at a minimum, allows for quarterly and  
 1975 semiannual payment of premiums. A monthly payment plan may, but

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1976 is not required to, be offered.

1977 ~~15.16.~~ Must limit coverage on mobile homes or manufactured  
 1978 homes built before 1994 to actual cash value of the dwelling  
 1979 rather than replacement costs of the dwelling.

1980 ~~16.17.~~ Must provide coverage for manufactured or mobile  
 1981 home dwellings. Such coverage must also include the following  
 1982 attached structures:

1983 a. Screened enclosures that are aluminum framed or  
 1984 screened enclosures that are not covered by the same or  
 1985 substantially the same materials as those of the primary  
 1986 dwelling;

1987 b. Carports that are aluminum or carports that are not  
 1988 covered by the same or substantially the same materials as those  
 1989 of the primary dwelling; and

1990 c. Patios that have a roof covering that is constructed of  
 1991 materials that are not the same or substantially the same  
 1992 materials as those of the primary dwelling.

1993

1994 The corporation shall make available a policy for mobile homes  
 1995 or manufactured homes for a minimum insured value of at least  
 1996 \$3,000.

1997 ~~17.18.~~ May provide such limits of coverage as the board  
 1998 determines, consistent with the requirements of this subsection.

1999 ~~18.19.~~ May require commercial property to meet specified  
 2000 hurricane mitigation construction features as a condition of



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2001 eligibility for coverage.  
 2002 19.20. Must provide that new or renewal policies issued by  
 2003 the corporation on or after January 1, 2012, which cover  
 2004 sinkhole loss do not include coverage for any loss to  
 2005 appurtenant structures, driveways, sidewalks, decks, or patios  
 2006 that are directly or indirectly caused by sinkhole activity. The  
 2007 corporation shall exclude such coverage using a notice of  
 2008 coverage change, which may be included with the policy renewal,  
 2009 and not by issuance of a notice of nonrenewal of the excluded  
 2010 coverage upon renewal of the current policy.

2011 20.a.21.a. ~~As of January 1, 2012, unless the Citizens~~  
 2012 ~~account has been established pursuant to sub-subparagraph~~  
 2013 ~~(b)2.b.,~~ Must require that the agent obtain from an applicant  
 2014 for coverage from the corporation an acknowledgment signed by  
 2015 the applicant, which includes, at a minimum, the following  
 2016 statement:

2017  
 2018 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE  
 2019 AND ASSESSMENT LIABILITY:

2020  
 2021 1. AS A POLICYHOLDER OF CITIZENS PROPERTY  
 2022 INSURANCE CORPORATION, I UNDERSTAND THAT IF THE  
 2023 CORPORATION SUSTAINS A DEFICIT AS A RESULT OF  
 2024 HURRICANE LOSSES OR FOR ANY OTHER REASON, MY POLICY  
 2025 COULD BE SUBJECT TO SURCHARGES AND ASSESSMENTS, WHICH

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2026 WILL BE DUE AND PAYABLE UPON RENEWAL, CANCELLATION, OR  
 2027 TERMINATION OF THE POLICY, AND THAT THE SURCHARGES AND  
 2028 ASSESSMENTS COULD BE AS HIGH AS 25 ~~45~~ PERCENT OF MY  
 2029 PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE  
 2030 FLORIDA LEGISLATURE.

2031 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS  
 2032 POLICYHOLDER SURCHARGE, WHICH COULD BE AS HIGH AS 15  
 2033 ~~45~~ PERCENT OF MY PREMIUM, BY OBTAINING COVERAGE FROM A  
 2034 PRIVATE MARKET INSURER AND THAT TO BE ELIGIBLE FOR  
 2035 COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN  
 2036 PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR  
 2037 RENEWING COVERAGE WITH CITIZENS. I UNDERSTAND THAT  
 2038 PRIVATE MARKET INSURANCE RATES ARE REGULATED AND  
 2039 APPROVED BY THE STATE.

2040 3. I UNDERSTAND THAT I MAY BE SUBJECT TO  
 2041 EMERGENCY ASSESSMENTS TO THE SAME EXTENT AS  
 2042 POLICYHOLDERS OF OTHER INSURANCE COMPANIES, OR A  
 2043 DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA  
 2044 LEGISLATURE.

2045 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY  
 2046 INSURANCE CORPORATION IS NOT SUPPORTED BY THE FULL  
 2047 FAITH AND CREDIT OF THE STATE OF FLORIDA.

2048  
 2049 ~~b. The corporation must require, if it has established the~~  
 2050 ~~Citizens account pursuant to sub-subparagraph (b)2.b., that the~~

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2051 ~~agent obtain from an applicant for coverage from the corporation~~  
 2052 ~~the following acknowledgment signed by the applicant, which~~  
 2053 ~~includes, at a minimum, the following statement:~~

2054  
 2055 ~~ACKNOWLEDGMENT OF POTENTIAL SURCHARGE~~  
 2056 ~~AND ASSESSMENT LIABILITY:~~

2057  
 2058 ~~1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE~~  
 2059 ~~CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A~~  
 2060 ~~DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,~~  
 2061 ~~MY POLICY COULD BE SUBJECT TO SURCHARGES AND ASSESSMENTS, WHICH~~  
 2062 ~~WILL BE DUE AND PAYABLE UPON RENEWAL, CANCELLATION, OR~~  
 2063 ~~TERMINATION OF THE POLICY, AND THAT THE SURCHARGES AND~~  
 2064 ~~ASSESSMENTS COULD BE AS HIGH AS 25 PERCENT OF MY PREMIUM, OR A~~  
 2065 ~~DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA LEGISLATURE.~~

2066 ~~2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER~~  
 2067 ~~SURCHARGE, WHICH COULD BE AS HIGH AS 15 PERCENT OF MY PREMIUM,~~  
 2068 ~~BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO~~  
 2069 ~~BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN~~  
 2070 ~~PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE~~  
 2071 ~~WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES~~  
 2072 ~~ARE REGULATED AND APPROVED BY THE STATE.~~

2073 ~~3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY~~  
 2074 ~~ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER~~  
 2075 ~~INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE~~

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2076 ~~FLORIDA LEGISLATURE.~~

2077 ~~4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE~~  
 2078 ~~CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE~~  
 2079 ~~STATE OF FLORIDA.~~

2080  
 2081 b.e. The corporation shall maintain, in electronic format  
 2082 or otherwise, a copy of the applicant's signed acknowledgment  
 2083 and provide a copy of the statement to the policyholder as part  
 2084 of the first renewal after the effective date of sub-  
 2085 subparagraph a. ~~or sub-subparagraph b., as applicable.~~

2086 c.d. The signed acknowledgment form creates a conclusive  
 2087 presumption that the policyholder understood and accepted his or  
 2088 her potential surcharge and assessment liability as a  
 2089 policyholder of the corporation.

2090 21. Must provide that the income of the corporation may  
 2091 not inure to the benefit of any private person.

2092 (e) The corporation is subject to s. 287.057 for the  
 2093 purchase of commodities and contractual services except as  
 2094 otherwise provided in this paragraph. Services provided by  
 2095 tradepersons or technical experts to assist a licensed adjuster  
 2096 in the evaluation of individual claims are not subject to the  
 2097 procurement requirements of this section. Additionally, the  
 2098 procurement of financial services providers and underwriters  
 2099 must be made pursuant to s. 627.3513. Contracts for goods or  
 2100 services valued at or more than \$100,000 are subject to approval

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2101 | by the board.

2102 |         1. The corporation is an agency for purposes of s.  
 2103 | 287.057, except that, for purposes of s. 287.057(24), the  
 2104 | corporation is an eligible user.

2105 |             a. The authority of the Department of Management Services  
 2106 | and the Chief Financial Officer under s. 287.057 extends to the  
 2107 | corporation as if the corporation were an agency.

2108 |             b. The executive director of the corporation is the agency  
 2109 | head under s. 287.057, ~~except for resolution of bid protests for~~  
 2110 | ~~which the board would serve as the agency head.~~ The executive  
 2111 | director of the corporation may assign or appoint a designee to  
 2112 | act on his or her behalf.

2113 |         2. The corporation must provide notice of a decision or  
 2114 | intended decision concerning a solicitation, contract award, or  
 2115 | exceptional purchase by electronic posting. Such notice must  
 2116 | contain the following statement: "Failure to file a protest  
 2117 | within the time prescribed in this section constitutes a waiver  
 2118 | of proceedings."

2119 |             a. A person adversely affected by the corporation's  
 2120 | decision or intended decision to award a contract pursuant to s.  
 2121 | 287.057(1) or (3)(c) who elects to challenge the decision must  
 2122 | file a written notice of protest with the executive director of  
 2123 | the corporation within 72 hours after the corporation posts a  
 2124 | notice of its decision or intended decision. For a protest of  
 2125 | the terms, conditions, and specifications contained in a

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2126 solicitation, including provisions governing the methods for  
2127 ranking bids, proposals, replies, awarding contracts, reserving  
2128 rights of further negotiation, or modifying or amending any  
2129 contract, the notice of protest must be filed in writing within  
2130 72 hours after posting the solicitation. Saturdays, Sundays, and  
2131 state holidays are excluded in the computation of the 72-hour  
2132 time period.

2133       b. A formal written protest must be filed within 10 days  
2134 after the date the notice of protest is filed. The formal  
2135 written protest must state with particularity the facts and law  
2136 upon which the protest is based. Upon receipt of a formal  
2137 written protest that has been timely filed, the corporation must  
2138 stop the solicitation or contract award process until the  
2139 subject of the protest is resolved by final board action unless  
2140 the executive director sets forth in writing particular facts  
2141 and circumstances that require the continuance of the  
2142 solicitation or contract award process without delay in order to  
2143 avoid an immediate and serious danger to the public health,  
2144 safety, or welfare.

2145       (I) The corporation must provide an opportunity to resolve  
2146 the protest by mutual agreement between the parties within 7  
2147 business days after receipt of the formal written protest.

2148       (II) If the subject of a protest is not resolved by mutual  
2149 agreement within 7 business days, the corporation's board must  
2150 transmit the protest to the Division of Administrative Hearings

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2151 and contract with the division to conduct a hearing to determine  
 2152 the merits of the protest and to issue a recommended order. The  
 2153 contract must provide for the corporation to reimburse the  
 2154 division for any costs incurred by the division for court  
 2155 reporters, transcript preparation, travel, facility rental, and  
 2156 other customary hearing costs in the manner set forth in s.  
 2157 120.65(9). The division has jurisdiction to determine the facts  
 2158 and law concerning the protest and to issue a recommended order.  
 2159 The division's rules and procedures apply to these proceedings,  
 2160 ~~the division's applicable bond requirements do not apply.~~ The  
 2161 protest must be heard by the division at a publicly noticed  
 2162 meeting in accordance with procedures established by the  
 2163 division.

2164 c. In a protest of an invitation-to-bid or request-for-  
 2165 proposals procurement, submissions made after the bid or  
 2166 proposal opening which amend or supplement the bid or proposal  
 2167 may not be considered. In protesting an invitation-to-negotiate  
 2168 procurement, submissions made after the corporation announces  
 2169 its intent to award a contract, reject all replies, or withdraw  
 2170 the solicitation that amends or supplements the reply may not be  
 2171 considered. Unless otherwise provided by law, the burden of  
 2172 proof rests with the party protesting the corporation's action.  
 2173 In a competitive-procurement protest, other than a rejection of  
 2174 all bids, proposals, or replies, the administrative law judge  
 2175 must conduct a de novo proceeding to determine whether the

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2176 corporation's proposed action is contrary to the corporation's  
 2177 governing statutes, the corporation's rules or policies, or the  
 2178 solicitation specifications. The standard of proof for the  
 2179 proceeding is whether the corporation's action was clearly  
 2180 erroneous, contrary to competition, arbitrary, or capricious. In  
 2181 any bid-protest proceeding contesting an intended corporation  
 2182 action to reject all bids, proposals, or replies, the standard  
 2183 of review by the board is whether the corporation's intended  
 2184 action is illegal, arbitrary, dishonest, or fraudulent.

2185 d. Failure to file a notice of protest or failure to file  
 2186 a formal written protest constitutes a waiver of proceedings.

2187 3. The ~~board, acting as~~ agency head or his or her  
 2188 designee, shall consider the recommended order of an  
 2189 administrative law judge ~~in a public meeting~~ and take final  
 2190 action on the protest. Any further legal remedy lies with the  
 2191 First District Court of Appeal.

2192 (o) If coverage in ~~an account, or~~ the Citizens account ~~if~~  
 2193 ~~established by the corporation,~~ is deactivated pursuant to  
 2194 paragraph (p), coverage through the corporation shall be  
 2195 reactivated by order of the office only under one of the  
 2196 following circumstances:

2197 1. If the market assistance plan receives a minimum of 100  
 2198 applications for coverage within a 3-month period, or 200  
 2199 applications for coverage within a 1-year period or less for  
 2200 residential coverage, unless the market assistance plan provides



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2201 a quotation from authorized ~~admitted~~ carriers at their approved  
 2202 ~~filed~~ rates for at least 90 percent of such applicants. Any  
 2203 market assistance plan application that is rejected because an  
 2204 individual risk is so hazardous as to be uninsurable using the  
 2205 criteria specified in subparagraph (c)8. may ~~shall~~ not be  
 2206 included in the minimum percentage calculation provided herein.  
 2207 In the event that there is a legal or administrative challenge  
 2208 to a determination by the office that the conditions of this  
 2209 subparagraph have been met for eligibility for coverage in the  
 2210 corporation, any eligible risk may obtain coverage during the  
 2211 pendency of such challenge.

2212 2. In response to a state of emergency declared by the  
 2213 Governor under s. 252.36, the office may activate coverage by  
 2214 order for the period of the emergency upon a finding by the  
 2215 office that the emergency significantly affects the availability  
 2216 of residential property insurance.

2217 (p)1. The corporation shall file with the office quarterly  
 2218 statements of financial condition, an annual statement of  
 2219 financial condition, and audited financial statements in the  
 2220 manner prescribed by law. In addition, the corporation shall  
 2221 report to the office monthly on the types, premium, exposure,  
 2222 and distribution by county of its policies in force, and shall  
 2223 submit other reports as the office requires to carry out its  
 2224 oversight of the corporation.

2225 2. The activities of the corporation shall be reviewed at

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2226 | least annually by the office to determine whether coverage shall  
 2227 | be deactivated in ~~an account, or in~~ the Citizens account ~~if~~  
 2228 | ~~established by the corporation,~~ on the basis that the conditions  
 2229 | giving rise to its activation no longer exist.

2230 |       (q)1. The corporation shall certify to the office its  
 2231 | needs for annual assessments as to a particular calendar year,  
 2232 | and for any interim assessments that it deems to be necessary to  
 2233 | sustain operations as to a particular year pending the receipt  
 2234 | of annual assessments. Upon verification, the office shall  
 2235 | approve such certification, and the corporation shall levy such  
 2236 | annual or interim assessments. Such assessments shall be  
 2237 | prorated, if authority to levy exists, as provided in paragraph  
 2238 | (b). The corporation shall take all reasonable and prudent steps  
 2239 | necessary to collect the amount of assessments due from each  
 2240 | assessable insurer, including, if prudent, filing suit to  
 2241 | collect the assessments, and the office may provide such  
 2242 | assistance to the corporation it deems appropriate. If the  
 2243 | corporation is unable to collect an assessment from any  
 2244 | assessable insurer, the uncollected assessments shall be levied  
 2245 | as an additional assessment against the assessable insurers and  
 2246 | any assessable insurer required to pay an additional assessment  
 2247 | as a result of such failure to pay shall have a cause of action  
 2248 | against such nonpaying assessable insurer. Assessments shall be  
 2249 | included as an appropriate factor in the making of rates. The  
 2250 | failure of a surplus lines agent to collect and remit any

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2251 regular or emergency assessment levied by the corporation is  
 2252 considered to be a violation of s. 626.936 and subjects the  
 2253 surplus lines agent to the penalties provided in that section.

2254         2. The governing body of any unit of local government, any  
 2255 residents of which are insured by the corporation, may issue  
 2256 bonds as defined in s. 125.013 or s. 166.101 from time to time  
 2257 to fund an assistance program, in conjunction with the  
 2258 corporation, for the purpose of defraying deficits of the  
 2259 corporation. In order to avoid needless and indiscriminate  
 2260 proliferation, duplication, and fragmentation of such assistance  
 2261 programs, any unit of local government, any residents of which  
 2262 are insured by the corporation, may provide for the payment of  
 2263 losses, regardless of whether or not the losses occurred within  
 2264 or outside of the territorial jurisdiction of the local  
 2265 government. Revenue bonds under this subparagraph may not be  
 2266 issued until validated pursuant to chapter 75, unless a state of  
 2267 emergency is declared by executive order or proclamation of the  
 2268 Governor pursuant to s. 252.36 making such findings as are  
 2269 necessary to determine that it is in the best interests of, and  
 2270 necessary for, the protection of the public health, safety, and  
 2271 general welfare of residents of this state and declaring it an  
 2272 essential public purpose to permit certain municipalities or  
 2273 counties to issue such bonds as will permit relief to claimants  
 2274 and policyholders of the corporation. Any such unit of local  
 2275 government may enter into such contracts with the corporation

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2276 and with any other entity created pursuant to this subsection as  
 2277 are necessary to carry out this paragraph. Any bonds issued  
 2278 under this subparagraph shall be payable from and secured by  
 2279 moneys received by the corporation from emergency assessments  
 2280 under sub-subparagraph (b)3.c. ~~(b)3.e.~~, and assigned and pledged  
 2281 to or on behalf of the unit of local government for the benefit  
 2282 of the holders of such bonds. The funds, credit, property, and  
 2283 taxing power of the state or of the unit of local government may  
 2284 ~~shall~~ not be pledged for the payment of such bonds.

2285 3.a. The corporation shall adopt one or more programs  
 2286 subject to approval by the office for the reduction of both new  
 2287 and renewal writings in the corporation. Beginning January 1,  
 2288 2008, any program the corporation adopts for the payment of  
 2289 bonuses to an insurer for each risk the insurer removes from the  
 2290 corporation shall comply with s. 627.3511(2) and may not exceed  
 2291 the amount referenced in s. 627.3511(2) for each risk removed.  
 2292 The corporation may consider any prudent and not unfairly  
 2293 discriminatory approach to reducing corporation writings, and  
 2294 may adopt a credit against assessment liability or other  
 2295 liability that provides an incentive for insurers to take risks  
 2296 out of the corporation and to keep risks out of the corporation  
 2297 by maintaining or increasing voluntary writings in counties or  
 2298 areas in which corporation risks are highly concentrated and a  
 2299 program to provide a formula under which an insurer voluntarily  
 2300 taking risks out of the corporation by maintaining or increasing

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2301 voluntary writings will be relieved wholly or partially from  
 2302 assessments ~~under sub-subparagraph (b)3.a.~~ However, any "take-  
 2303 out bonus" or payment to an insurer must be conditioned on the  
 2304 property being insured for at least 5 years by the insurer,  
 2305 unless canceled or nonrenewed by the policyholder. If the policy  
 2306 is canceled or nonrenewed by the policyholder before the end of  
 2307 the 5-year period, the amount of the take-out bonus must be  
 2308 prorated for the time period the policy was insured. When the  
 2309 corporation enters into a contractual agreement for a take-out  
 2310 plan, the producing agent of record of the corporation policy is  
 2311 entitled to retain any unearned commission on such policy, and  
 2312 the insurer shall either:

2313 (I) Pay to the producing agent of record of the policy,  
 2314 for the first year, an amount which is the greater of the  
 2315 insurer's usual and customary commission for the type of policy  
 2316 written or a policy fee equal to the usual and customary  
 2317 commission of the corporation; or

2318 (II) Offer to allow the producing agent of record of the  
 2319 policy to continue servicing the policy for a period of not less  
 2320 than 1 year and offer to pay the agent the insurer's usual and  
 2321 customary commission for the type of policy written. If the  
 2322 producing agent is unwilling or unable to accept appointment by  
 2323 the new insurer, the new insurer shall pay the agent in  
 2324 accordance with sub-sub-subparagraph (I).

2325 b. Any credit or exemption from regular assessments

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2326 adopted under this subparagraph shall last no longer than the 3  
2327 years following the cancellation or expiration of the policy by  
2328 the corporation. With the approval of the office, the board may  
2329 extend such credits for an additional year if the insurer  
2330 guarantees an additional year of renewability for all policies  
2331 removed from the corporation, or for 2 additional years if the  
2332 insurer guarantees 2 additional years of renewability for all  
2333 policies so removed.

2334 c. There shall be no credit, limitation, exemption, or  
2335 deferment from emergency assessments to be collected from  
2336 policyholders pursuant to sub-subparagraph (b)3.c. ~~sub-~~  
2337 ~~subparagraph (b)3.e. or sub-subparagraph (b)5.c.~~

2338 4. ~~The plan shall provide for the deferment, in whole or~~  
2339 ~~in part, of the assessment of an assessable insurer, other than~~  
2340 ~~an emergency assessment collected from policyholders pursuant to~~  
2341 ~~sub-subparagraph (b)3.e. or sub-subparagraph (b)5.c., if the~~  
2342 ~~office finds that payment of the assessment would endanger or~~  
2343 ~~impair the solvency of the insurer. In the event an assessment~~  
2344 ~~against an assessable insurer is deferred in whole or in part,~~  
2345 ~~the amount by which such assessment is deferred may be assessed~~  
2346 ~~against the other assessable insurers in a manner consistent~~  
2347 ~~with the basis for assessments set forth in paragraph (b).~~

2348 5. Effective July 1, 2007, in order to evaluate the costs  
2349 and benefits of approved take-out plans, if the corporation pays  
2350 a bonus or other payment to an insurer for an approved take-out

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2351 plan, it shall maintain a record of the address or such other  
2352 identifying information on the property or risk removed in order  
2353 to track if and when the property or risk is later insured by  
2354 the corporation.

2355 ~~5.6-~~ Any policy taken out, assumed, or removed from the  
2356 corporation is, as of the effective date of the take-out,  
2357 assumption, or removal, direct insurance issued by the insurer  
2358 and not by the corporation, even if the corporation continues to  
2359 service the policies. This subparagraph applies to policies of  
2360 the corporation and not policies taken out, assumed, or removed  
2361 from any other entity.

2362 ~~6.7-~~ For a policy taken out, assumed, or removed from the  
2363 corporation, the insurer may, for a period of no more than 3  
2364 years, continue to use any of the corporation's policy forms or  
2365 endorsements that apply to the policy taken out, removed, or  
2366 assumed without obtaining approval from the office for use of  
2367 such policy form or endorsement.

2368 (v)1. Effective July 1, 2002, policies of the Residential  
2369 Property and Casualty Joint Underwriting Association become  
2370 policies of the corporation. All obligations, rights, assets and  
2371 liabilities of the association, including bonds, note and debt  
2372 obligations, and the financing documents pertaining to them  
2373 become those of the corporation as of July 1, 2002. The  
2374 corporation is not required to issue endorsements or  
2375 certificates of assumption to insureds during the remaining term

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2376 of in-force transferred policies.

2377         2. Effective July 1, 2002, policies of the Florida  
 2378 Windstorm Underwriting Association are transferred to the  
 2379 corporation and become policies of the corporation. All  
 2380 obligations, rights, assets, and liabilities of the association,  
 2381 including bonds, note and debt obligations, and the financing  
 2382 documents pertaining to them are transferred to and assumed by  
 2383 the corporation on July 1, 2002. The corporation is not required  
 2384 to issue endorsements or certificates of assumption to insureds  
 2385 during the remaining term of in-force transferred policies.

2386         3. The Florida Windstorm Underwriting Association and the  
 2387 Residential Property and Casualty Joint Underwriting Association  
 2388 shall take all actions necessary to further evidence the  
 2389 transfers and provide the documents and instruments of further  
 2390 assurance as may reasonably be requested by the corporation for  
 2391 that purpose. The corporation shall execute assumptions and  
 2392 instruments as the trustees or other parties to the financing  
 2393 documents of the Florida Windstorm Underwriting Association or  
 2394 the Residential Property and Casualty Joint Underwriting  
 2395 Association may reasonably request to further evidence the  
 2396 transfers and assumptions, which transfers and assumptions,  
 2397 however, are effective on the date provided under this paragraph  
 2398 whether or not, and regardless of the date on which, the  
 2399 assumptions or instruments are executed by the corporation.  
 2400 ~~Subject to the relevant financing documents pertaining to their~~



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2401 ~~outstanding bonds, notes, indebtedness, or other financing~~  
 2402 ~~obligations, the moneys, investments, receivables, choses in~~  
 2403 ~~action, and other intangibles of the Florida Windstorm~~  
 2404 ~~Underwriting Association shall be credited to the coastal~~  
 2405 ~~account of the corporation, and those of the personal lines~~  
 2406 ~~residential coverage account and the commercial lines~~  
 2407 ~~residential coverage account of the Residential Property and~~  
 2408 ~~Casualty Joint Underwriting Association shall be credited to the~~  
 2409 ~~personal lines account and the commercial lines account,~~  
 2410 ~~respectively, of the corporation.~~

2411 4. Effective July 1, 2002, a new applicant for property  
 2412 insurance coverage who would otherwise have been eligible for  
 2413 coverage in the Florida Windstorm Underwriting Association is  
 2414 eligible for coverage from the corporation as provided in this  
 2415 subsection.

2416 5. The transfer of all policies, obligations, rights,  
 2417 assets, and liabilities from the Florida Windstorm Underwriting  
 2418 Association to the corporation and the renaming of the  
 2419 Residential Property and Casualty Joint Underwriting Association  
 2420 as the corporation does not affect the coverage with respect to  
 2421 covered policies as defined in s. 215.555(2)(c) provided to  
 2422 these entities by the Florida Hurricane Catastrophe Fund. ~~The~~  
 2423 ~~coverage provided by the fund to the Florida Windstorm~~  
 2424 ~~Underwriting Association based on its exposures as of June 30,~~  
 2425 ~~2002, and each June 30 thereafter, unless the corporation has~~

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2426 ~~established the Citizens account, shall be redesignated as~~  
 2427 ~~coverage for the coastal account of the corporation.~~  
 2428 ~~Notwithstanding any other provision of law, the coverage~~  
 2429 ~~provided by the fund to the Residential Property and Casualty~~  
 2430 ~~Joint Underwriting Association based on its exposures as of June~~  
 2431 ~~30, 2002, and each June 30 thereafter, unless the corporation~~  
 2432 ~~has established the Citizens account, shall be transferred to~~  
 2433 ~~the personal lines account and the commercial lines account of~~  
 2434 ~~the corporation. Notwithstanding any other provision of law, the~~  
 2435 ~~coastal account, unless the corporation has established the~~  
 2436 ~~Citizens account, shall be treated, for all Florida Hurricane~~  
 2437 ~~Catastrophe Fund purposes, as if it were a separate~~  
 2438 ~~participating insurer with its own exposures, reimbursement~~  
 2439 ~~premium, and loss reimbursement. Likewise, the personal lines~~  
 2440 ~~and commercial lines accounts, unless the corporation has~~  
 2441 ~~established the Citizens account, shall be viewed together, for~~  
 2442 ~~all fund purposes, as if the two accounts were one and represent~~  
 2443 ~~a single, separate participating insurer with its own exposures,~~  
 2444 ~~reimbursement premium, and loss reimbursement. The coverage~~  
 2445 ~~provided by the fund to the corporation shall constitute and~~  
 2446 ~~operate as a full transfer of coverage from the Florida~~  
 2447 ~~Windstorm Underwriting Association and Residential Property and~~  
 2448 ~~Casualty Joint Underwriting Association to the corporation.~~  
 2449 (w) Notwithstanding any other provision of law:  
 2450 1. The pledge or sale of, the lien upon, and the security

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2451 interest in any rights, revenues, or other assets of the  
2452 corporation created or purported to be created pursuant to any  
2453 financing documents to secure any bonds or other indebtedness of  
2454 the corporation shall be and remain valid and enforceable,  
2455 notwithstanding the commencement of and during the continuation  
2456 of, and after, any rehabilitation, insolvency, liquidation,  
2457 bankruptcy, receivership, conservatorship, reorganization, or  
2458 similar proceeding against the corporation under the laws of  
2459 this state.

2460 2. The proceeding does not relieve the corporation of its  
2461 obligation, or otherwise affect its ability to perform its  
2462 obligation, to continue to collect, or levy and collect,  
2463 assessments, policyholder surcharges or other surcharges ~~under~~  
2464 ~~sub-subparagraph (b) 3. j.~~, or any other rights, revenues, or  
2465 other assets of the corporation pledged pursuant to any  
2466 financing documents.

2467 3. Each such pledge or sale of, lien upon, and security  
2468 interest in, including the priority of such pledge, lien, or  
2469 security interest, any such assessments, policyholder surcharges  
2470 or other surcharges, or other rights, revenues, or other assets  
2471 which are collected, or levied and collected, after the  
2472 commencement of and during the pendency of, or after, any such  
2473 proceeding shall continue unaffected by such proceeding. As used  
2474 in this subsection, the term "financing documents" means any  
2475 agreement or agreements, instrument or instruments, or other

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2476 document or documents now existing or hereafter created  
 2477 evidencing any bonds or other indebtedness of the corporation or  
 2478 pursuant to which any such bonds or other indebtedness has been  
 2479 or may be issued and pursuant to which any rights, revenues, or  
 2480 other assets of the corporation are pledged or sold to secure  
 2481 the repayment of such bonds or indebtedness, together with the  
 2482 payment of interest on such bonds or such indebtedness, or the  
 2483 payment of any other obligation or financial product, as defined  
 2484 in the plan of operation of the corporation related to such  
 2485 bonds or indebtedness.

2486 4. Any such pledge or sale of assessments, revenues,  
 2487 contract rights, or other rights or assets of the corporation  
 2488 shall constitute a lien and security interest, or sale, as the  
 2489 case may be, that is immediately effective and attaches to such  
 2490 assessments, revenues, or contract rights or other rights or  
 2491 assets, whether or not imposed or collected at the time the  
 2492 pledge or sale is made. Any such pledge or sale is effective,  
 2493 valid, binding, and enforceable against the corporation or other  
 2494 entity making such pledge or sale, and valid and binding against  
 2495 and superior to any competing claims or obligations owed to any  
 2496 other person or entity, including policyholders in this state,  
 2497 asserting rights in any such assessments, revenues, or contract  
 2498 rights or other rights or assets to the extent set forth in and  
 2499 in accordance with the terms of the pledge or sale contained in  
 2500 the applicable financing documents, whether or not any such

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2501 person or entity has notice of such pledge or sale and without  
 2502 the need for any physical delivery, recordation, filing, or  
 2503 other action.

2504 5. As long as the corporation has any bonds outstanding,  
 2505 the corporation may not file a voluntary petition under chapter  
 2506 9 of the federal Bankruptcy Code or such corresponding chapter  
 2507 or sections as may be in effect, from time to time, and a public  
 2508 officer or any organization, entity, or other person may not  
 2509 authorize the corporation to be or become a debtor under chapter  
 2510 9 of the federal Bankruptcy Code or such corresponding chapter  
 2511 or sections as may be in effect, from time to time, during any  
 2512 such period.

2513 6. If ordered by a court of competent jurisdiction, the  
 2514 corporation may assume policies or otherwise provide coverage  
 2515 for policyholders of an insurer placed in liquidation under  
 2516 chapter 631, under such forms, rates, terms, and conditions as  
 2517 the corporation deems appropriate, subject to approval by the  
 2518 office.

2519 (x)1. The following records of the corporation are  
 2520 confidential and exempt from the provisions of s. 119.07(1) and  
 2521 s. 24(a), Art. I of the State Constitution:

2522 a. Underwriting files, except that a policyholder or an  
 2523 applicant shall have access to his or her own underwriting  
 2524 files. Confidential and exempt underwriting file records may  
 2525 also be released to other governmental agencies upon written

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2526 request and demonstration of need; such records held by the  
 2527 receiving agency remain confidential and exempt as provided  
 2528 herein.

2529       b. Claims files, until termination of all litigation and  
 2530 settlement of all claims arising out of the same incident,  
 2531 although portions of the claims files may remain exempt, as  
 2532 otherwise provided by law. Confidential and exempt claims file  
 2533 records may be released to other governmental agencies upon  
 2534 written request and demonstration of need; such records held by  
 2535 the receiving agency remain confidential and exempt as provided  
 2536 herein.

2537       c. Records obtained or generated by an internal auditor  
 2538 pursuant to a routine audit, until the audit is completed, or if  
 2539 the audit is conducted as part of an investigation, until the  
 2540 investigation is closed or ceases to be active. An investigation  
 2541 is considered "active" while the investigation is being  
 2542 conducted with a reasonable, good faith belief that it could  
 2543 lead to the filing of administrative, civil, or criminal  
 2544 proceedings.

2545       d. Matters reasonably encompassed in privileged attorney-  
 2546 client communications.

2547       e. Proprietary information licensed to the corporation  
 2548 under contract and the contract provides for the confidentiality  
 2549 of such proprietary information.

2550       f. All information relating to the medical condition or

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2551 medical status of a corporation employee which is not relevant  
2552 to the employee's capacity to perform his or her duties, except  
2553 as otherwise provided in this paragraph. Information that is  
2554 exempt shall include, but is not limited to, information  
2555 relating to workers' compensation, insurance benefits, and  
2556 retirement or disability benefits.

2557 g. Upon an employee's entrance into the employee  
2558 assistance program, a program to assist any employee who has a  
2559 behavioral or medical disorder, substance abuse problem, or  
2560 emotional difficulty that affects the employee's job  
2561 performance, all records relative to that participation shall be  
2562 confidential and exempt from the provisions of s. 119.07(1) and  
2563 s. 24(a), Art. I of the State Constitution, except as otherwise  
2564 provided in s. 112.0455(11).

2565 h. Information relating to negotiations for financing,  
2566 reinsurance, depopulation, or contractual services, until the  
2567 conclusion of the negotiations.

2568 i. Minutes of closed meetings regarding underwriting  
2569 files, and minutes of closed meetings regarding an open claims  
2570 file until termination of all litigation and settlement of all  
2571 claims with regard to that claim, except that information  
2572 otherwise confidential or exempt by law shall be redacted.

2573 2. If an authorized insurer is considering underwriting a  
2574 risk insured by the corporation, relevant underwriting files and  
2575 confidential claims files may be released to the insurer

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2576 provided the insurer agrees in writing, notarized and under  
2577 oath, to maintain the confidentiality of such files. If a file  
2578 is transferred to an insurer, that file is no longer a public  
2579 record because it is not held by an agency subject to the  
2580 provisions of the public records law. Underwriting files and  
2581 confidential claims files may also be released to staff and the  
2582 board of governors of the market assistance plan established  
2583 pursuant to s. 627.3515, who must retain the confidentiality of  
2584 such files, except such files may be released to authorized  
2585 insurers that are considering assuming the risks to which the  
2586 files apply, provided the insurer agrees in writing, notarized  
2587 and under oath, to maintain the confidentiality of such files.  
2588 Finally, the corporation or the board or staff of the market  
2589 assistance plan may make the following information obtained from  
2590 underwriting files and confidential claims files available to an  
2591 entity that has obtained a permit to become an authorized  
2592 insurer, a reinsurer that may provide reinsurance under s.  
2593 624.610, a licensed reinsurance broker, a licensed rating  
2594 organization, a modeling company, a licensed surplus lines  
2595 agent, or a licensed general lines insurance agent: name,  
2596 address, and telephone number of the residential property owner  
2597 or insured; location of the risk; rating information; loss  
2598 history; and policy type. The receiving person must retain the  
2599 confidentiality of the information received and may use the  
2600 information only for the purposes of developing a take-out plan



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2601 or a rating plan to be submitted to the office for approval or  
2602 otherwise analyzing the underwriting of a risk or risks insured  
2603 by the corporation on behalf of the private insurance market. A  
2604 licensed surplus lines agent or licensed general lines insurance  
2605 agent may not use such information for the direct solicitation  
2606 of policyholders.

2607 3. A policyholder who has filed suit against the  
2608 corporation has the right to discover the contents of his or her  
2609 own claims file to the same extent that discovery of such  
2610 contents would be available from a private insurer in litigation  
2611 as provided by the Florida Rules of Civil Procedure, the Florida  
2612 Evidence Code, and other applicable law. Pursuant to subpoena, a  
2613 third party has the right to discover the contents of an  
2614 insured's or applicant's underwriting or claims file to the same  
2615 extent that discovery of such contents would be available from a  
2616 private insurer by subpoena as provided by the Florida Rules of  
2617 Civil Procedure, the Florida Evidence Code, and other applicable  
2618 law, and subject to any confidentiality protections requested by  
2619 the corporation and agreed to by the seeking party or ordered by  
2620 the court. The corporation may release confidential underwriting  
2621 and claims file contents and information as it deems necessary  
2622 and appropriate to underwrite or service insurance policies and  
2623 claims, subject to any confidentiality protections deemed  
2624 necessary and appropriate by the corporation.

2625 4. Portions of meetings of the corporation are exempt from

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2626 | the provisions of s. 286.011 and s. 24(b), Art. I of the State  
2627 | Constitution wherein confidential underwriting files or  
2628 | confidential open claims files are discussed. All portions of  
2629 | corporation meetings which are closed to the public shall be  
2630 | recorded by a court reporter. The court reporter shall record  
2631 | the times of commencement and termination of the meeting, all  
2632 | discussion and proceedings, the names of all persons present at  
2633 | any time, and the names of all persons speaking. No portion of  
2634 | any closed meeting shall be off the record. Subject to the  
2635 | provisions hereof and s. 119.07(1)(d)-(f), the court reporter's  
2636 | notes of any closed meeting shall be retained by the corporation  
2637 | for a minimum of 5 years. A copy of the transcript, less any  
2638 | exempt matters, of any closed meeting wherein claims are  
2639 | discussed shall become public as to individual claims after  
2640 | settlement of the claim.

2641 |       (z) In enacting the provisions of this section, the  
2642 | Legislature recognizes that both the Florida Windstorm  
2643 | Underwriting Association and the Residential Property and  
2644 | Casualty Joint Underwriting Association have entered into  
2645 | financing arrangements that obligate each entity to service its  
2646 | debts and maintain the capacity to repay funds secured under  
2647 | these financing arrangements. It is the intent of the  
2648 | Legislature that nothing in this section be construed to  
2649 | compromise, diminish, or interfere with the rights of creditors  
2650 | under such financing arrangements. It is further the intent of

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2651 the Legislature to preserve the obligations of the Florida  
 2652 Windstorm Underwriting Association and Residential Property and  
 2653 Casualty Joint Underwriting Association with regard to  
 2654 outstanding financing arrangements, with such obligations  
 2655 passing entirely and unchanged to the corporation and,  
 2656 specifically, to the Citizens ~~applicable~~ account ~~of the~~  
 2657 ~~corporation~~. So long as any bonds, notes, indebtedness, or other  
 2658 financing obligations of the Florida Windstorm Underwriting  
 2659 Association or the Residential Property and Casualty Joint  
 2660 Underwriting Association are outstanding, under the terms of the  
 2661 financing documents pertaining to them, the governing board of  
 2662 the corporation shall have and shall exercise the authority to  
 2663 levy, charge, collect, and receive all premiums, assessments,  
 2664 surcharges, charges, revenues, and receipts that the  
 2665 associations had authority to levy, charge, collect, or receive  
 2666 under the provisions of subsection (2) and this subsection,  
 2667 respectively, as they existed on January 1, 2002, to provide  
 2668 moneys, without exercise of the authority provided by this  
 2669 subsection, in at least the amounts, and by the times, as would  
 2670 be provided under those former provisions of subsection (2) or  
 2671 this subsection, respectively, so that the value, amount, and  
 2672 collectability of any assets, revenues, or revenue source  
 2673 pledged or committed to, or any lien thereon securing such  
 2674 outstanding bonds, notes, indebtedness, or other financing  
 2675 obligations will not be diminished, impaired, or adversely

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2676 affected by the amendments made by this act and to permit  
 2677 compliance with all provisions of financing documents pertaining  
 2678 to such bonds, notes, indebtedness, or other financing  
 2679 obligations, or the security or credit enhancement for them, and  
 2680 any reference in this subsection to bonds, notes, indebtedness,  
 2681 financing obligations, or similar obligations, of the  
 2682 corporation shall include like instruments or contracts of the  
 2683 Florida Windstorm Underwriting Association and the Residential  
 2684 Property and Casualty Joint Underwriting Association to the  
 2685 extent not inconsistent with the provisions of the financing  
 2686 documents pertaining to them.

2687 (ii) The corporation shall revise the programs adopted  
 2688 pursuant to sub-subparagraph (q)3.a. for personal lines  
 2689 residential policies to maximize policyholder options and  
 2690 encourage increased participation by insurers and agents. After  
 2691 January 1, 2017, a policy may not be taken out of the  
 2692 corporation unless the provisions of this paragraph are met.

2693 1. The corporation must publish a periodic schedule of  
 2694 cycles during which an insurer may identify, and notify the  
 2695 corporation of, policies that the insurer is requesting to take  
 2696 out. A request must include a description of the coverage  
 2697 offered and an estimated premium and must be submitted to the  
 2698 corporation in a form and manner prescribed by the corporation.

2699 2. The corporation must maintain and make available to the  
 2700 agent of record a consolidated list of all insurers requesting

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2701 to take out a policy. The list must include a description of the  
 2702 coverage offered and the estimated premium for each take-out  
 2703 request.

2704 3. If a policyholder receives a take-out offer from an  
 2705 authorized insurer, the risk is no longer eligible for coverage  
 2706 with the corporation unless the premium for coverage from the  
 2707 authorized insurer is more than 20 percent greater than the  
 2708 renewal premium for comparable coverage from the corporation  
 2709 pursuant to sub-subparagraph (c) 5.d. ~~(e) 5.e.~~ This subparagraph  
 2710 applies to take-out offers that are part of an application to  
 2711 participate in depopulation submitted to the office on or after  
 2712 January 1, 2023. This subparagraph only applies to a policy that  
 2713 covers a primary residence.

2714 4. The corporation must provide written notice to the  
 2715 policyholder and the agent of record regarding all insurers  
 2716 requesting to take out the policy. The notice must be in a  
 2717 format prescribed by the corporation and include, for each take-  
 2718 out offer:

- 2719 a. The amount of the estimated premium;
- 2720 b. A description of the coverage; and
- 2721 c. A comparison of the estimated premium and coverage  
 2722 offered by the insurer to the estimated premium and coverage  
 2723 provided by the corporation.

2724 (nn) The corporation may share its claims data with the  
 2725 National Insurance Crime Bureau, provided that the National

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2726 Insurance Crime Bureau agrees to maintain the confidentiality of  
 2727 such documents as otherwise provided for in paragraph (x).

2728 (7) TRADEMARKS, COPYRIGHTS, OR PATENTS.—Notwithstanding  
 2729 any other law, the corporation is authorized, in its own name,  
 2730 to:

2731 (a) Perform all things necessary to secure letters of  
 2732 patent, copyrights, or trademarks on any work products and  
 2733 enforce its rights therein.

2734 (b) License, lease, assign, or otherwise give written  
 2735 consent to any person, firm, or corporation for the manufacture  
 2736 or use thereof, on a royalty basis or for such other  
 2737 consideration as the corporation deems proper.

2738 (c) Take any action necessary, including legal action, to  
 2739 protect trademarks, copyrights, or patents against improper or  
 2740 unlawful use or infringement.

2741 (d) Enforce the collection of any sums due the corporation  
 2742 for the manufacture or use thereof by any other party.

2743 (e) Sell any of its trademarks, copyrights, or patents and  
 2744 execute all instruments necessary to consummate any such sale.

2745 (f) Do all other acts necessary and proper for the  
 2746 execution of powers and duties herein conferred upon the  
 2747 corporation in order to administer this subsection.

2748 Section 3. Subsection (3) and paragraphs (d), (e), and (f)  
 2749 of subsection (6) of section 627.3511, Florida Statutes, are  
 2750 amended to read:

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2751           627.3511 Depopulation of Citizens Property Insurance  
2752 Corporation.—

2753           (3) EXEMPTION FROM DEFICIT ASSESSMENTS.—

2754           ~~(a) The calculation of an insurer's assessment liability~~  
2755 ~~under s. 627.351(6) (b) 3.a. shall, for an insurer that in any~~  
2756 ~~calendar year removes 50,000 or more risks from the Citizens~~  
2757 ~~Property Insurance Corporation, either by issuance of a policy~~  
2758 ~~upon expiration or cancellation of the corporation policy or by~~  
2759 ~~assumption of the corporation's obligations with respect to in-~~  
2760 ~~force policies, exclude such removed policies for the succeeding~~  
2761 ~~3 years, as follows:~~

2762           ~~1. In the first year following removal of the risks, the~~  
2763 ~~risks are excluded from the calculation to the extent of 100~~  
2764 ~~percent.~~

2765           ~~2. In the second year following removal of the risks, the~~  
2766 ~~risks are excluded from the calculation to the extent of 75~~  
2767 ~~percent.~~

2768           ~~3. In the third year following removal of the risks, the~~  
2769 ~~risks are excluded from the calculation to the extent of 50~~  
2770 ~~percent.~~

2771  
2772 ~~If the removal of risks is accomplished through assumption of~~  
2773 ~~obligations with respect to in-force policies, the corporation~~  
2774 ~~shall pay to the assuming insurer all unearned premium with~~  
2775 ~~respect to such policies less any policy acquisition costs~~

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2776 | ~~agreed to by the corporation and assuming insurer. The term~~  
2777 | ~~"policy acquisition costs" is defined as costs of issuance of~~  
2778 | ~~the policy by the corporation which includes agent commissions,~~  
2779 | ~~servicing company fees, and premium tax. This paragraph does not~~  
2780 | ~~apply to an insurer that, at any time within 5 years before~~  
2781 | ~~removing the risks, had a market share in excess of 0.1 percent~~  
2782 | ~~of the statewide aggregate gross direct written premium for any~~  
2783 | ~~line of property insurance, or to an affiliate of such an~~  
2784 | ~~insurer. This paragraph does not apply unless either at least 40~~  
2785 | ~~percent of the risks removed from the corporation are located in~~  
2786 | ~~Miami-Dade, Broward, and Palm Beach Counties, or at least 30~~  
2787 | ~~percent of the risks removed from the corporation are located in~~  
2788 | ~~such counties and an additional 50 percent of the risks removed~~  
2789 | ~~from the corporation are located in other coastal counties.~~

2790 | ~~(b) An insurer that first wrote personal lines residential~~  
2791 | ~~property coverage in this state on or after July 1, 1994, is~~  
2792 | ~~exempt from regular deficit assessments imposed pursuant to s.~~  
2793 | ~~627.351(6)(b)3.a., but not emergency assessments collected from~~  
2794 | ~~policyholders pursuant to s. 627.351(6)(b)3.e., of the Citizens~~  
2795 | ~~Property Insurance Corporation until the earlier of the~~  
2796 | ~~following:~~

2797 | ~~1. The end of the calendar year in which it first wrote~~  
2798 | ~~0.5 percent or more of the statewide aggregate direct written~~  
2799 | ~~premium for any line of residential property coverage; or~~

2800 | ~~2. December 31, 1997, or December 31 of the third year in~~



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2801 ~~which it wrote such coverage in this state, whichever is later.~~

2802 ~~(c) Other than an insurer that is exempt under paragraph~~  
 2803 ~~(b), an insurer that in any calendar year increases its total~~  
 2804 ~~structure exposure subject to wind coverage by 25 percent or~~  
 2805 ~~more over its exposure for the preceding calendar year is, with~~  
 2806 ~~respect to that year, exempt from deficit assessments imposed~~  
 2807 ~~pursuant to s. 627.351(6)(b)3.a., but not emergency assessments~~  
 2808 ~~collected from policyholders pursuant to s. 627.351(6)(b)3.e.,~~  
 2809 ~~of the Citizens Property Insurance Corporation attributable to~~  
 2810 ~~such increase in exposure.~~

2811 ~~(d)~~ Any exemption or credit from regular assessments  
 2812 authorized by this section shall last no longer than 3 years  
 2813 following the cancellation or expiration of the policy by the  
 2814 corporation. With the approval of the office, the board may  
 2815 extend such credits for an additional year if the insurer  
 2816 guarantees an additional year of renewability for all policies  
 2817 removed from the corporation, or for 2 additional years if the  
 2818 insurer guarantees 2 additional years of renewability for all  
 2819 policies so removed.

2820 (6) COMMERCIAL RESIDENTIAL TAKE-OUT PLANS.—

2821 ~~(d) The calculation of an insurer's regular assessment~~  
 2822 ~~liability under s. 627.351(6)(b)3.a., but not emergency~~  
 2823 ~~assessments collected from policyholders pursuant to s.~~  
 2824 ~~627.351(6)(b)3.e., shall, with respect to commercial residential~~  
 2825 ~~policies removed from the corporation under an approved take-out~~

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2826 ~~plan, exclude such removed policies for the succeeding 3 years,~~  
 2827 ~~as follows:~~

2828 ~~1. In the first year following removal of the policies,~~  
 2829 ~~the policies are excluded from the calculation to the extent of~~  
 2830 ~~100 percent.~~

2831 ~~2. In the second year following removal of the policies,~~  
 2832 ~~the policies are excluded from the calculation to the extent of~~  
 2833 ~~75 percent.~~

2834 ~~3. In the third year following removal of the policies,~~  
 2835 ~~the policies are excluded from the calculation to the extent of~~  
 2836 ~~50 percent.~~

2837 ~~(c) An insurer that first wrote commercial residential~~  
 2838 ~~property coverage in this state on or after June 1, 1996, is~~  
 2839 ~~exempt from regular assessments under s. 627.351(6)(b)3.a., but~~  
 2840 ~~not emergency assessments collected from policyholders pursuant~~  
 2841 ~~to s. 627.351(6)(b)3.e., with respect to commercial residential~~  
 2842 ~~policies until the earlier of:~~

2843 ~~1. The end of the calendar year in which such insurer~~  
 2844 ~~first wrote 0.5 percent or more of the statewide aggregate~~  
 2845 ~~direct written premium for commercial residential property~~  
 2846 ~~coverage; or~~

2847 ~~2. December 31 of the third year in which such insurer~~  
 2848 ~~wrote commercial residential property coverage in this state.~~

2849 ~~(f) An insurer that is not otherwise exempt from regular~~  
 2850 ~~assessments under s. 627.351(6)(b)3.a. with respect to~~

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2851 ~~commercial residential policies is, for any calendar year in~~  
 2852 ~~which such insurer increased its total commercial residential~~  
 2853 ~~hurricane exposure by 25 percent or more over its exposure for~~  
 2854 ~~the preceding calendar year, exempt from regular assessments~~  
 2855 ~~under s. 627.351(6)(b)3.a., but not emergency assessments~~  
 2856 ~~collected from policyholders pursuant to s. 627.351(6)(b)3.e.,~~  
 2857 ~~attributable to such increased exposure.~~

2858 Section 4. Subsections (5), (6), and (7) of section  
 2859 627.3518, Florida Statutes, are amended to read:

2860 627.3518 Citizens Property Insurance Corporation  
 2861 policyholder eligibility clearinghouse program.—The purpose of  
 2862 this section is to provide a framework for the corporation to  
 2863 implement a clearinghouse program by January 1, 2014.

2864 (5) Notwithstanding s. 627.3517, any applicant for new  
 2865 coverage from the corporation is not eligible for coverage from  
 2866 the corporation if provided an offer of coverage from an  
 2867 authorized insurer through the program at a premium that is at  
 2868 or below the eligibility threshold for applicants for new  
 2869 coverage of a primary residence established in s.

2870 627.351(6)(c)5.a., or for applicants for new coverage of a risk  
 2871 that is not a primary residence established in s.

2872 627.351(6)(c)5.b. Whenever an offer of coverage for a personal  
 2873 lines risk is received for a policyholder of the corporation at  
 2874 renewal from an authorized insurer through the program which is  
 2875 at or below the eligibility threshold for primary residences of

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2876 policyholders of the corporation established in s.  
2877 627.351(6)(c)5.a., or the eligibility threshold for risks that  
2878 are not primary residences of policyholders of the corporation  
2879 established in s. 627.351(6)(c)5.b., the risk is not eligible  
2880 for coverage with the corporation. In the event an offer of  
2881 coverage for a new applicant is received from an authorized  
2882 insurer through the program, and the premium offered exceeds the  
2883 eligibility threshold for applicants for new coverage of a  
2884 primary residence established in s. 627.351(6)(c)5.a., or the  
2885 eligibility threshold for applicants for new coverage on a risk  
2886 that is not a primary residence established in s.  
2887 627.351(6)(c)5.b., the applicant or insured may elect to accept  
2888 such coverage, or may elect to accept or continue coverage with  
2889 the corporation. In the event an offer of coverage for a  
2890 personal lines risk is received from an authorized insurer at  
2891 renewal through the program, and the premium offered exceeds the  
2892 eligibility threshold for primary residences of policyholders of  
2893 the corporation established in s. 627.351(6)(c)5.a., or exceeds  
2894 the eligibility threshold for risks that are not primary  
2895 residences of policyholders of the corporation established in s.  
2896 627.351(6)(c)5.b., the insured may elect to accept such  
2897 coverage, or may elect to accept or continue coverage with the  
2898 corporation. Section 627.351(6)(c)5.a.(I) and b.(I) does not  
2899 apply to an offer of coverage from an authorized insurer  
2900 obtained through the program. As used in this subsection, the

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2901 term "primary residence" has the same meaning as in s.  
 2902 627.351 (6) (c) 2.a.

2903 (6) Independent insurance agents submitting new  
 2904 applications for coverage or that are the agent of record on a  
 2905 renewal policy submitted to the program:

2906 (a) Are granted and must maintain ownership and the  
 2907 exclusive use of expirations, records, or other written or  
 2908 electronic information directly related to such applications or  
 2909 renewals written through the corporation or through an insurer  
 2910 participating in the program, notwithstanding s.

2911 627.351 (6) (c) 5.a. (I) (B) and (II) (B) or s.

2912 627.351 (6) (c) 5.b. (I) (B) and (II) (B). Such ownership is granted  
 2913 for as long as the insured remains with the agency or until sold  
 2914 or surrendered in writing by the agent. Contracts with the  
 2915 corporation or required by the corporation must not amend,  
 2916 modify, interfere with, or limit such rights of ownership. Such  
 2917 expirations, records, or other written or electronic information  
 2918 may be used to review an application, issue a policy, or for any  
 2919 other purpose necessary for placing such business through the  
 2920 program.

2921 (b) May not be required to be appointed by any insurer  
 2922 participating in the program for policies written solely through  
 2923 the program, notwithstanding the provisions of s. 626.112.

2924 (c) May accept an appointment from any insurer  
 2925 participating in the program.

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2926 (d) May enter into either a standard or limited agency  
 2927 agreement with the insurer, at the insurer's option.

2928  
 2929 Applicants ineligible for coverage in accordance with subsection  
 2930 (5) remain ineligible if their independent agent is unwilling or  
 2931 unable to enter into a standard or limited agency agreement with  
 2932 an insurer participating in the program.

2933 (7) Exclusive agents submitting new applications for  
 2934 coverage or that are the agent of record on a renewal policy  
 2935 submitted to the program:

2936 (a) Must maintain ownership and the exclusive use of  
 2937 expirations, records, or other written or electronic information  
 2938 directly related to such applications or renewals written  
 2939 through the corporation or through an insurer participating in  
 2940 the program, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and  
 2941 (II)(B) or s. 627.351(6)(c)5.b.(I)(B) and (II)(B). Contracts  
 2942 with the corporation or required by the corporation must not  
 2943 amend, modify, interfere with, or limit such rights of  
 2944 ownership. Such expirations, records, or other written or  
 2945 electronic information may be used to review an application,  
 2946 issue a policy, or for any other purpose necessary for placing  
 2947 such business through the program.

2948 (b) May not be required to be appointed by any insurer  
 2949 participating in the program for policies written solely through  
 2950 the program, notwithstanding the provisions of s. 626.112.

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2951 (c) Must only facilitate the placement of an offer of  
 2952 coverage from an insurer whose limited servicing agreement is  
 2953 approved by that exclusive agent's exclusive insurer.

2954 (d) May enter into a limited servicing agreement with the  
 2955 insurer making an offer of coverage, and only after the  
 2956 exclusive agent's insurer has approved the limited servicing  
 2957 agreement terms. The exclusive agent's insurer must approve a  
 2958 limited service agreement for the program for any insurer for  
 2959 which it has approved a service agreement for other purposes.

2960  
 2961 Applicants ineligible for coverage in accordance with subsection  
 2962 (5) remain ineligible if their exclusive agent is unwilling or  
 2963 unable to enter into a standard or limited agency agreement with  
 2964 an insurer making an offer of coverage to that applicant.

2965 Section 5. Except as otherwise expressly provided in this  
 2966 act and except for this section, which shall take effect upon  
 2967 becoming a law, this act shall take effect July 1, 2024.