

By the Committees on Fiscal Policy; and Banking and Insurance;
and Senator Boyd

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1 A bill to be entitled
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 authorizing the Office of Insurance Regulation to
9 evaluate whether there is a reasonable degree of
10 competition within certain zip codes; providing that
11 certain structures located within certain zip codes
12 are eligible for coverage from the corporation;
13 providing that certain accounts for Citizens Property
14 Insurance Corporation revenues, assets, liabilities,
15 losses, and expenses are now maintained as the
16 Citizens account; revising the requirements for
17 certain coverages by the corporation; requiring the
18 inclusion of quota share primary insurance in certain
19 policies; deleting provisions relating to legislative
20 goals; conforming provisions to changes made by the
21 act; revising provisions relating to deficits in
22 certain accounts; revising the definition of the term
23 "assessments"; deleting provisions relating to
24 surcharges and regular assessments upon determination
25 of projected deficits; deleting provisions relating to
26 funds available to the corporation as sources of
27 revenue and bonds; deleting definitions; deleting
28 provisions relating to the duties of the Florida
29 Surplus Lines Service Office; deleting provisions

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30 relating to disposition of excess amounts of
31 assessments and surcharges; defining the terms
32 "approved surplus lines insurer" and "primary
33 residence"; providing applicability of certain
34 provisions relating to personal lines residential
35 risks coverage by the corporation; providing that
36 certain personal lines residential risks are not
37 eligible for any policy issued by the corporation;
38 providing an exception; providing that certain
39 personal lines residential risks are not eligible for
40 coverage with the corporation under certain
41 circumstances; providing an exception; providing that
42 certain risks are eligible for certain standard
43 policies; providing that certain risks are eligible
44 for certain basic policies; requiring the department to
45 determine the type of policy to be provided on the
46 basis of certain standards and practices; providing
47 that certain policyholders do not remain eligible for
48 coverage from the corporation; requiring the insurer
49 to pay the producing agent of record a certain amount
50 or make certain offers under certain circumstances;
51 providing that the producing agent of record is
52 entitled to retain certain commission on the policy;
53 requiring the insurer to pay the producing agent of
54 record a certain amount or make certain offers under
55 certain circumstances; revising the corporation's plan
56 of operation; revising the required statements from
57 applicants for coverage; revising the duties of the
58 executive director of the corporation; authorizing the

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59 executive director to assign and appoint designees;
60 deleting an applicability provision relating to bond
61 requirements; revising the personal lines policies that
62 are not subject to certain rate limitations; deleting
63 provisions relating to certain insurer assessment
64 deferments; deleting provisions relating to the
65 intangibles of and coverage by the Florida Windstorm
66 Underwriting Association and the corporation coastal
67 account; authorizing the corporation and certain
68 persons to make specified information obtained from
69 underwriting files and confidential claims files
70 available to licensed surplus lines agents;
71 prohibiting such agents from using such information
72 for specified purposes; providing applicability of
73 provisions relating to take-out offers that are part
74 of applications to participate in depopulation;
75 authorizing the corporation to share its claims data
76 with a specified entity; authorizing the corporation
77 to take certain actions relating to trademarks,
78 copyrights, or patents; amending s. 627.3511, F.S.;
79 conforming provisions to changes made by the act;
80 conforming cross-references; amending s. 627.3518,
81 F.S.; revising eligibility requirements for
82 policyholders at renewal and for applicants for new
83 coverage; defining the term "primary residence";
84 providing effective dates.

85

86 Be It Enacted by the Legislature of the State of Florida:

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

91 627.351 Insurance risk apportionment plans.—

92 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

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

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

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

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

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

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117 2. All personal lines residential policyholders whose
118 property insured by the corporation is located within the
119 special flood hazard area defined by the Federal Emergency
120 Management Agency must have flood coverage in place:

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

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

126 3. Policyholders are not required to purchase flood
127 insurance as a condition for maintaining the following policies
128 issued by the corporation:

129 a. Policies that do not provide coverage for the peril of
130 wind.

131 b. Policies that provide coverage under a condominium unit
132 owners form.

133

134 The flood insurance required under this paragraph must meet, at
135 a minimum, the dwelling coverage available from the National
136 Flood Insurance Program or the requirements of ~~subparagraphs~~ s.
137 627.715(1)(a)1., 2., and 3.

138 Section 2. Present subsection (7) of section 627.351,
139 Florida Statutes, is redesignated as subsection (8), a new
140 subsection (7) is added to that section, paragraph (nn) is added
141 to subsection (6) of that section, and paragraph (b) of
142 subsection (2) and paragraphs (a), (b), (c), (e), (n) through
143 (q), (v), (w), (x), (z), and (ii) of subsection (6) of that
144 section are amended, to read:

145 627.351 Insurance risk apportionment plans.—

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146 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

147 (b) The department shall require all insurers holding a
148 certificate of authority to transact property insurance on a
149 direct basis in this state, other than joint underwriting
150 associations and other entities formed pursuant to this section,
151 to provide windstorm coverage to applicants from areas
152 determined to be eligible pursuant to paragraph (c) who in good
153 faith are entitled to, but are unable to procure, such coverage
154 through ordinary means; or it shall adopt a reasonable plan or
155 plans for the equitable apportionment or sharing among such
156 insurers of windstorm coverage, which may include formation of
157 an association for this purpose. As used in this subsection, the
158 term "property insurance" means insurance on real or personal
159 property, as defined in s. 624.604, including insurance for
160 fire, industrial fire, allied lines, farmowners multiperil,
161 homeowners multiperil, commercial multiperil, and mobile homes,
162 and including liability coverages on all such insurance, but
163 excluding inland marine as defined in s. 624.607(3) and
164 excluding vehicle insurance as defined in s. 624.605(1)(a) other
165 than insurance on mobile homes used as permanent dwellings. The
166 department shall adopt rules that provide a formula for the
167 recovery and repayment of any deferred assessments.

168 1. For the purpose of this section, properties eligible for
169 such windstorm coverage are defined as dwellings, buildings, and
170 other structures, including mobile homes which are used as
171 dwellings and which are tied down in compliance with mobile home
172 tie-down requirements prescribed by the Department of Highway
173 Safety and Motor Vehicles pursuant to s. 320.8325, and the
174 contents of all such properties. An applicant or policyholder is

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175 eligible for coverage only if an offer of coverage cannot be
176 obtained by or for the applicant or policyholder from an
177 admitted insurer at approved rates.

178 2.a.(I) All insurers required to be members of such
179 association shall participate in its writings, expenses, and
180 losses. Surplus of the association shall be retained for the
181 payment of claims and shall not be distributed to the member
182 insurers. Such participation by member insurers shall be in the
183 proportion that the net direct premiums of each member insurer
184 written for property insurance in this state during the
185 preceding calendar year bear to the aggregate net direct
186 premiums for property insurance of all member insurers, as
187 reduced by any credits for voluntary writings, in this state
188 during the preceding calendar year. For the purposes of this
189 subsection, the term "net direct premiums" means direct written
190 premiums for property insurance, reduced by premium for
191 liability coverage and for the following if included in allied
192 lines: rain and hail on growing crops; livestock; association
193 direct premiums booked; National Flood Insurance Program direct
194 premiums; and similar deductions specifically authorized by the
195 plan of operation and approved by the department. A member's
196 participation shall begin on the first day of the calendar year
197 following the year in which it is issued a certificate of
198 authority to transact property insurance in the state and shall
199 terminate 1 year after the end of the calendar year during which
200 it no longer holds a certificate of authority to transact
201 property insurance in the state. The commissioner, after review
202 of annual statements, other reports, and any other statistics
203 that the commissioner deems necessary, shall certify to the

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204 association the aggregate direct premiums written for property
205 insurance in this state by all member insurers.

206 (II) Effective July 1, 2002, the association shall operate
207 subject to the supervision and approval of a board of governors
208 who are the same individuals that have been appointed by the
209 Treasurer to serve on the board of governors of the Citizens
210 Property Insurance Corporation.

211 (III) The plan of operation shall provide a formula whereby
212 a company voluntarily providing windstorm coverage in affected
213 areas will be relieved wholly or partially from apportionment of
214 a regular assessment pursuant to sub-sub-subparagraph d.(I) or
215 sub-sub-subparagraph d.(II).

216 (IV) A company which is a member of a group of companies
217 under common management may elect to have its credits applied on
218 a group basis, and any company or group may elect to have its
219 credits applied to any other company or group.

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

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

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

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

259 c. The Legislature finds that the potential for unlimited
260 deficit assessments under this subparagraph may induce insurers
261 to attempt to reduce their writings in the voluntary market, and

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262 that such actions would worsen the availability problems that
263 the association was created to remedy. It is the intent of the
264 Legislature that insurers remain fully responsible for paying
265 regular assessments and collecting emergency assessments for any
266 deficits of the association; however, it is also the intent of
267 the Legislature to provide a means by which assessment
268 liabilities may be amortized over a period of years.

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

274 (II) When the deficit incurred in a particular calendar
275 year exceeds 10 percent of the aggregate statewide direct
276 written premium for property insurance for the prior calendar
277 year for all member insurers, the association shall levy an
278 assessment on member insurers in an amount equal to the greater
279 of 10 percent of the deficit or 10 percent of the aggregate
280 statewide direct written premium for property insurance for the
281 prior calendar year for member insurers. Any remaining deficit
282 shall be recovered through emergency assessments under sub-sub-
283 subparagraph (III).

284 (III) Upon a determination by the board of directors that a
285 deficit exceeds the amount that will be recovered through
286 regular assessments on member insurers, pursuant to sub-sub-
287 subparagraph (I) or sub-sub-subparagraph (II), the board shall
288 levy, after verification by the department, emergency
289 assessments to be collected by member insurers and by
290 underwriting associations created pursuant to this section which

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291 write property insurance, upon issuance or renewal of property
292 insurance policies other than National Flood Insurance policies
293 in the year or years following levy of the regular assessments.
294 The amount of the emergency assessment collected in a particular
295 year shall be a uniform percentage of that year's direct written
296 premium for property insurance for all member insurers and
297 underwriting associations, excluding National Flood Insurance
298 policy premiums, as annually determined by the board and
299 verified by the department. The department shall verify the
300 arithmetic calculations involved in the board's determination
301 within 30 days after receipt of the information on which the
302 determination was based. Notwithstanding any other provision of
303 law, each member insurer and each underwriting association
304 created pursuant to this section shall collect emergency
305 assessments from its policyholders without such obligation being
306 affected by any credit, limitation, exemption, or deferment. The
307 emergency assessments so collected shall be transferred directly
308 to the association on a periodic basis as determined by the
309 association. The aggregate amount of emergency assessments
310 levied under this sub-sub-subparagraph in any calendar year may
311 not exceed the greater of 10 percent of the amount needed to
312 cover the original deficit, plus interest, fees, commissions,
313 required reserves, and other costs associated with financing of
314 the original deficit, or 10 percent of the aggregate statewide
315 direct written premium for property insurance written by member
316 insurers and underwriting associations for the prior year, plus
317 interest, fees, commissions, required reserves, and other costs
318 associated with financing the original deficit. The board may
319 pledge the proceeds of the emergency assessments under this sub-

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320 sub-subparagraph as the source of revenue for bonds, to retire
321 any other debt incurred as a result of the deficit or events
322 giving rise to the deficit, or in any other way that the board
323 determines will efficiently recover the deficit. The emergency
324 assessments under this sub-sub-subparagraph shall continue as
325 long as any bonds issued or other indebtedness incurred with
326 respect to a deficit for which the assessment was imposed remain
327 outstanding, unless adequate provision has been made for the
328 payment of such bonds or other indebtedness pursuant to the
329 document governing such bonds or other indebtedness. Emergency
330 assessments collected under this sub-sub-subparagraph are not
331 part of an insurer's rates, are not premium, and are not subject
332 to premium tax, fees, or commissions; however, failure to pay
333 the emergency assessment shall be treated as failure to pay
334 premium.

335 (IV) Each member insurer's share of the total regular
336 assessments under sub-sub-subparagraph (I) or sub-sub-
337 subparagraph (II) shall be in the proportion that the insurer's
338 net direct premium for property insurance in this state, for the
339 year preceding the assessment bears to the aggregate statewide
340 net direct premium for property insurance of all member
341 insurers, as reduced by any credits for voluntary writings for
342 that year.

343 (V) If regular deficit assessments are made under sub-sub-
344 subparagraph (I) or sub-sub-subparagraph (II), ~~or by the~~
345 ~~Residential Property and Casualty Joint Underwriting Association~~
346 ~~under sub-subparagraph (6)(b)3.a.~~, the association shall levy
347 upon the association's policyholders, as part of its next rate
348 filing, or by a separate rate filing solely for this purpose, a

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349 market equalization surcharge in a percentage equal to the total
350 amount of such regular assessments divided by the aggregate
351 statewide direct written premium for property insurance for
352 member insurers for the prior calendar year. Market equalization
353 surcharges under this sub-sub-subparagraph are not considered
354 premium and are not subject to commissions, fees, or premium
355 taxes; however, failure to pay a market equalization surcharge
356 shall be treated as failure to pay premium.

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

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378 policyholders of the association and insurers responsible for
379 apportionment of plan losses. Any such unit of local government
380 may enter into such contracts with the association and with any
381 other entity created pursuant to this subsection as are
382 necessary to carry out this paragraph. Any bonds issued under
383 this sub-subparagraph shall be payable from and secured by
384 moneys received by the association from assessments under this
385 subparagraph, and assigned and pledged to or on behalf of the
386 unit of local government for the benefit of the holders of such
387 bonds. The funds, credit, property, and taxing power of the
388 state or of the unit of local government shall not be pledged
389 for the payment of such bonds. If any of the bonds remain unsold
390 60 days after issuance, the department shall require all
391 insurers subject to assessment to purchase the bonds, which
392 shall be treated as admitted assets; each insurer shall be
393 required to purchase that percentage of the unsold portion of
394 the bond issue that equals the insurer's relative share of
395 assessment liability under this subsection. An insurer shall not
396 be required to purchase the bonds to the extent that the
397 department determines that the purchase would endanger or impair
398 the solvency of the insurer. The authority granted by this sub-
399 subparagraph is additional to any bonding authority granted by
400 subparagraph 6.

401 3. The plan shall also provide that any member with a
402 surplus as to policyholders of \$25 million or less writing 25
403 percent or more of its total countrywide property insurance
404 premiums in this state may petition the department, within the
405 first 90 days of each calendar year, to qualify as a limited
406 apportionment company. The apportionment of such a member

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

424 4. The plan shall provide for the deferment, in whole or in
425 part, of a regular assessment of a member insurer under sub-sub-
426 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but not
427 for an emergency assessment collected from policyholders under
428 sub-sub-subparagraph 2.d.(III), if, in the opinion of the
429 commissioner, payment of such regular assessment would endanger
430 or impair the solvency of the member insurer. In the event a
431 regular assessment against a member insurer is deferred in whole
432 or in part, the amount by which such assessment is deferred may
433 be assessed against the other member insurers in a manner
434 consistent with the basis for assessments set forth in sub-sub-
435 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

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436 5.a. The plan of operation may include deductibles and
437 rules for classification of risks and rate modifications
438 consistent with the objective of providing and maintaining funds
439 sufficient to pay catastrophe losses.

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

452 c. The association shall provide for windstorm coverage on
453 residential properties in limits up to \$10 million for
454 commercial lines residential risks and up to \$1 million for
455 personal lines residential risks. If coverage with the
456 association is sought for a residential risk valued in excess of
457 these limits, coverage shall be available to the risk up to the
458 replacement cost or actual cash value of the property, at the
459 option of the insured, if coverage for the risk cannot be
460 located in the authorized market. The association must accept a
461 commercial lines residential risk with limits above \$10 million
462 or a personal lines residential risk with limits above \$1
463 million if coverage is not available in the authorized market.
464 The association may write coverage above the limits specified in

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465 this subparagraph with or without facultative or other
466 reinsurance coverage, as the association determines appropriate.

467 d. The plan of operation must provide objective criteria
468 and procedures, approved by the department, to be uniformly
469 applied for all applicants in determining whether an individual
470 risk is so hazardous as to be uninsurable. In making this
471 determination and in establishing the criteria and procedures,
472 the following shall be considered:

473 (I) Whether the likelihood of a loss for the individual
474 risk is substantially higher than for other risks of the same
475 class; and

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

478

479 The acceptance or rejection of a risk by the association
480 pursuant to such criteria and procedures must be construed as
481 the private placement of insurance, and the provisions of
482 chapter 120 do not apply.

483 e. If the risk accepts an offer of coverage through the
484 market assistance program or through a mechanism established by
485 the association, either before the policy is issued by the
486 association or during the first 30 days of coverage by the
487 association, and the producing agent who submitted the
488 application to the association is not currently appointed by the
489 insurer, the insurer shall:

490 (I) Pay to the producing agent of record of the policy, for
491 the first year, an amount that is the greater of the insurer's
492 usual and customary commission for the type of policy written or
493 a fee equal to the usual and customary commission of the

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494 association; or

495 (II) Offer to allow the producing agent of record of the
496 policy to continue servicing the policy for a period of not less
497 than 1 year and offer to pay the agent the greater of the
498 insurer's or the association's usual and customary commission
499 for the type of policy written.

500

501 If the producing agent is unwilling or unable to accept
502 appointment, the new insurer shall pay the agent in accordance
503 with sub-sub-subparagraph (I). Subject to the provisions of s.
504 627.3517, the policies issued by the association must provide
505 that if the association obtains an offer from an authorized
506 insurer to cover the risk at its approved rates under either a
507 standard policy including wind coverage or, if consistent with
508 the insurer's underwriting rules as filed with the department, a
509 basic policy including wind coverage, the risk is no longer
510 eligible for coverage through the association. Upon termination
511 of eligibility, the association shall provide written notice to
512 the policyholder and agent of record stating that the
513 association policy must be canceled as of 60 days after the date
514 of the notice because of the offer of coverage from an
515 authorized insurer. Other provisions of the insurance code
516 relating to cancellation and notice of cancellation do not apply
517 to actions under this sub-subparagraph.

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

522 (I) Pay to the producing agent of record of the association

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523 policy, for the first year, an amount that is the greater of the
524 insurer's usual and customary commission for the type of policy
525 written or a fee equal to the usual and customary commission of
526 the association; or

527 (II) Offer to allow the producing agent of record of the
528 association policy to continue servicing the policy for a period
529 of not less than 1 year and offer to pay the agent the greater
530 of the insurer's or the association's usual and customary
531 commission for the type of policy written.

532

533 If the producing agent is unwilling or unable to accept
534 appointment, the new insurer shall pay the agent in accordance
535 with sub-sub-subparagraph (I).

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

546 b. Any entity created under this subsection, or any entity
547 formed for the purposes of this subsection, may sue and be sued,
548 may borrow money; issue bonds, notes, or debt instruments;
549 pledge or sell assessments, market equalization surcharges and
550 other surcharges, rights, premiums, contractual rights,
551 projected recoveries from the Florida Hurricane Catastrophe

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

578 c. In recognition of s. 10, Art. I of the State
579 Constitution, prohibiting the impairment of obligations of
580 contracts, it is the intent of the Legislature that no action be

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581 taken whose purpose is to impair any bond indenture or financing
582 agreement or any revenue source committed by contract to such
583 bond or other indebtedness issued or incurred by the association
584 or any other entity created under this subsection.

585 7. On such coverage, an agent's remuneration shall be that
586 amount of money payable to the agent by the terms of his or her
587 contract with the company with which the business is placed.
588 However, no commission will be paid on that portion of the
589 premium which is in excess of the standard premium of that
590 company.

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

607 9. Notwithstanding any other provision of law:

608 a. The pledge or sale of, the lien upon, and the security
609 interest in any rights, revenues, or other assets of the

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610 association created or purported to be created pursuant to any
611 financing documents to secure any bonds or other indebtedness of
612 the association shall be and remain valid and enforceable,
613 notwithstanding the commencement of and during the continuation
614 of, and after, any rehabilitation, insolvency, liquidation,
615 bankruptcy, receivership, conservatorship, reorganization, or
616 similar proceeding against the association under the laws of
617 this state or any other applicable laws.

618 b. No such proceeding shall relieve the association of its
619 obligation, or otherwise affect its ability to perform its
620 obligation, to continue to collect, or levy and collect,
621 assessments, market equalization or other surcharges, projected
622 recoveries from the Florida Hurricane Catastrophe Fund,
623 reinsurance recoverables, or any other rights, revenues, or
624 other assets of the association pledged.

625 c. Each such pledge or sale of, lien upon, and security
626 interest in, including the priority of such pledge, lien, or
627 security interest, any such assessments, emergency assessments,
628 market equalization or renewal surcharges, projected recoveries
629 from the Florida Hurricane Catastrophe Fund, reinsurance
630 recoverables, or other rights, revenues, or other assets which
631 are collected, or levied and collected, after the commencement
632 of and during the pendency of or after any such proceeding shall
633 continue unaffected by such proceeding.

634 d. As used in this subsection, the term "financing
635 documents" means any agreement, instrument, or other document
636 now existing or hereafter created evidencing any bonds or other
637 indebtedness of the association or pursuant to which any such
638 bonds or other indebtedness has been or may be issued and

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639 pursuant to which any rights, revenues, or other assets of the
640 association are pledged or sold to secure the repayment of such
641 bonds or indebtedness, together with the payment of interest on
642 such bonds or such indebtedness, or the payment of any other
643 obligation of the association related to such bonds or
644 indebtedness.

645 e. Any such pledge or sale of assessments, revenues,
646 contract rights or other rights or assets of the association
647 shall constitute a lien and security interest, or sale, as the
648 case may be, that is immediately effective and attaches to such
649 assessments, revenues, contract, or other rights or assets,
650 whether or not imposed or collected at the time the pledge or
651 sale is made. Any such pledge or sale is effective, valid,
652 binding, and enforceable against the association or other entity
653 making such pledge or sale, and valid and binding against and
654 superior to any competing claims or obligations owed to any
655 other person or entity, including policyholders in this state,
656 asserting rights in any such assessments, revenues, contract, or
657 other rights or assets to the extent set forth in and in
658 accordance with the terms of the pledge or sale contained in the
659 applicable financing documents, whether or not any such person
660 or entity has notice of such pledge or sale and without the need
661 for any physical delivery, recordation, filing, or other action.

662 f. There shall be no liability on the part of, and no cause
663 of action of any nature shall arise against, any member insurer
664 or its agents or employees, agents or employees of the
665 association, members of the board of directors of the
666 association, or the department or its representatives, for any
667 action taken by them in the performance of their duties or

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668 responsibilities under this subsection. Such immunity does not
669 apply to actions for breach of any contract or agreement
670 pertaining to insurance, or any willful tort.

671 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

675 1. The Legislature finds that private insurers are
676 unwilling or unable to provide affordable property insurance
677 coverage in this state to the extent sought and needed. The
678 absence of affordable property insurance threatens the public
679 health, safety, and welfare and likewise threatens the economic
680 health of the state. The state therefore has a compelling public
681 interest and a public purpose to assist in assuring that
682 property in the state is insured and that it is insured at
683 affordable rates so as to facilitate the remediation,
684 reconstruction, and replacement of damaged or destroyed property
685 in order to reduce or avoid the negative effects otherwise
686 resulting to the public health, safety, and welfare, to the
687 economy of the state, and to the revenues of the state and local
688 governments which are needed to provide for the public welfare.
689 It is necessary, therefore, to provide affordable property
690 insurance to applicants who are in good faith entitled to
691 procure insurance through the voluntary market but are unable to
692 do so. The Legislature intends, therefore, that affordable
693 property insurance be provided and that it continue to be
694 provided, as long as necessary, through Citizens Property
695 Insurance Corporation, a government entity that is an integral
696 part of the state, and that is not a private insurance company.

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697 To that end, the corporation shall strive to increase the
698 availability of affordable property insurance in this state,
699 while achieving efficiencies and economies, and while providing
700 service to policyholders, applicants, and agents which is no
701 less than the quality generally provided in the voluntary
702 market, for the achievement of the foregoing public purposes.
703 Because it is essential for this government entity to have the
704 maximum financial resources to pay claims following a
705 catastrophic hurricane, it is the intent of the Legislature that
706 the corporation continue to be an integral part of the state and
707 that the income of the corporation be exempt from federal income
708 taxation and that interest on the debt obligations issued by the
709 corporation be exempt from federal income taxation.

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

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726 condominium unit owner, and similar policies; and commercial
727 lines residential coverage, which consists of the type of
728 coverage provided by condominium association, apartment
729 building, and similar policies.

730 3. With respect to coverage for personal lines residential
731 structures:

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

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

753 e. ~~Effective January 1, 2016, a structure that has a~~
754 ~~dwelling replacement cost of \$800,000 or more, or a single~~

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755 ~~condominium unit that has a combined dwelling and contents~~
756 ~~replacement cost of \$800,000 or more, is not eligible for~~
757 ~~coverage by the corporation. Such dwellings insured by the~~
758 ~~corporation on December 31, 2015, may continue to be covered by~~
759 ~~the corporation until the end of the policy term.~~

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

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

775 c. The office may evaluate whether there is a reasonable
776 degree of competition within an individual zip code located in a
777 county that has not been determined by the office to lack a
778 reasonable degree of competition at the county level pursuant to
779 sub-subparagraph b. If the office determines that such zip code
780 lacks a reasonable degree of competition, structures located
781 within that zip code that have a dwelling replacement cost of
782 \$700,000 or more but less than \$1 million and single condominium
783 units that have a combined dwelling and contents replacement

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784 cost of \$700,000 or more but less than \$1 million are eligible
785 for coverage from the corporation.

786 4. It is the intent of the Legislature that policyholders,
787 applicants, and agents of the corporation receive service and
788 treatment of the highest possible level but never less than that
789 generally provided in the voluntary market. It is also intended
790 that the corporation be held to service standards no less than
791 those applied to insurers in the voluntary market by the office
792 with respect to responsiveness, timeliness, customer courtesy,
793 and overall dealings with policyholders, applicants, or agents
794 of the corporation.

795 5.a. Effective January 1, 2009, a personal lines
796 residential structure that is located in the "wind-borne debris
797 region," as defined in s. 1609.2, International Building Code
798 (2006), and that has an insured value on the structure of
799 \$750,000 or more is not eligible for coverage by the corporation
800 unless the structure has opening protections as required under
801 the Florida Building Code for a newly constructed residential
802 structure in that area. A residential structure is deemed to
803 comply with this sub-subparagraph if it has shutters or opening
804 protections on all openings and if such opening protections
805 complied with the Florida Building Code at the time they were
806 installed.

807 b. Any major structure, as defined in s. 161.54(6)(a), that
808 is newly constructed, or rebuilt, repaired, restored, or
809 remodeled to increase the total square footage of finished area
810 by more than 25 percent, pursuant to a permit applied for after
811 July 1, 2015, is not eligible for coverage by the corporation if
812 the structure is seaward of the coastal construction control

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813 line established pursuant to s. 161.053 or is within the Coastal
814 Barrier Resources System as designated by 16 U.S.C. ss. 3501-
815 3510.

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

821 (b)1. All insurers authorized to write one or more subject
822 lines of business in this state are subject to assessment by the
823 corporation and, for the purposes of this subsection, are
824 referred to collectively as "assessable insurers." Insurers
825 writing one or more subject lines of business in this state
826 pursuant to part VIII of chapter 626 are not assessable
827 insurers; however, insureds who procure one or more subject
828 lines of business in this state pursuant to part VIII of chapter
829 626 are subject to assessment by the corporation and are
830 referred to collectively as "assessable insureds." An insurer's
831 assessment liability begins on the first day of the calendar
832 year following the year in which the insurer was issued a
833 certificate of authority to transact insurance for subject lines
834 of business in this state and terminates 1 year after the end of
835 the first calendar year during which the insurer no longer holds
836 a certificate of authority to transact insurance for subject
837 lines of business in this state.

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

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842 ~~a.(I) A personal lines account for~~ Personal residential
843 policies that provide ~~issued by the corporation which provides~~
844 comprehensive, multiperil coverage on risks that are not located
845 in areas eligible for coverage by the Florida Windstorm
846 Underwriting Association as those areas were defined on January
847 1, 2002, and for policies that do not provide coverage for the
848 peril of wind on risks that are located in such areas;

849 ~~b.(II) A commercial lines account for~~ Commercial
850 residential and commercial nonresidential policies that provide
851 ~~issued by the corporation which provides~~ coverage for basic
852 property perils on risks that are not located in areas eligible
853 for coverage by the Florida Windstorm Underwriting Association
854 as those areas were defined on January 1, 2002, and for policies
855 that do not provide coverage for the peril of wind on risks that
856 are located in such areas; and

857 ~~c.(III) A coastal account for~~ Personal residential policies
858 and commercial residential and commercial nonresidential
859 property policies that provide ~~issued by the corporation which~~
860 ~~provides~~ coverage for the peril of wind on risks that are
861 located in areas eligible for coverage by the Florida Windstorm
862 Underwriting Association as those areas were defined on January
863 1, 2002. The corporation may offer policies that provide
864 multiperil coverage and shall offer policies that provide
865 coverage only for the peril of wind for risks located in areas
866 eligible for coverage by the Florida Windstorm Underwriting
867 Association, as those areas were defined on January 1, 2002 ~~in~~
868 ~~the coastal account. Effective July 1, 2014,~~ The corporation may
869 not offer ~~shall cease offering~~ new commercial residential
870 policies providing multiperil coverage but ~~and~~ shall ~~instead~~

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871 continue to offer commercial residential wind-only policies, and
872 may offer commercial residential policies excluding wind.
873 However, the corporation may, ~~however~~, continue to renew a
874 commercial residential multiperil policy on a building that was
875 ~~is~~ insured by the corporation on June 30, 2014, under a
876 multiperil policy. In issuing multiperil coverage under this
877 sub-subparagraph, the corporation may use its approved policy
878 forms and rates for risks located in areas not eligible for
879 coverage by the Florida Windstorm Underwriting Association, as
880 those areas were defined on January 1, 2002, and for policies
881 that do not provide coverage for the peril of wind on risks that
882 are located in such areas ~~the personal lines account~~. An
883 applicant or insured who is eligible to purchase a multiperil
884 policy from the corporation may purchase a multiperil policy
885 from an authorized insurer without prejudice to the applicant's
886 or insured's eligibility to prospectively purchase a policy that
887 provides coverage only for the peril of wind from the
888 corporation. An applicant or insured who is eligible for a
889 corporation policy that provides coverage only for the peril of
890 wind may elect to purchase or retain such policy and also
891 purchase or retain coverage excluding wind from an authorized
892 insurer without prejudice to the applicant's or insured's
893 eligibility to prospectively purchase a policy that provides
894 multiperil coverage from the corporation. The following
895 policies, which provide coverage only for the peril of wind,
896 must also include quota share primary insurance under
897 subparagraph (c)2.:
898 (I) Personal residential policies and commercial
899 residential and commercial nonresidential property policies that

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900 provide coverage for the peril of wind on risks that are located
901 in areas eligible for coverage by the Florida Windstorm
902 Underwriting Association, as those areas were defined on January
903 1, 2002;

904 (II) Policies that provide multiperil coverage, if offered
905 by the corporation, and policies that provide coverage only for
906 the peril of wind for risks located in areas eligible for
907 coverage by the Florida Windstorm Underwriting Association, as
908 those areas were defined on January 1, 2002;

909 (III) Commercial residential wind-only policies;

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

912 (V) Commercial residential multiperil policies on a
913 building that was insured by the corporation on June 30, 2014 ~~It~~
914 ~~is the goal of the Legislature that there be an overall average~~
915 ~~savings of 10 percent or more for a policyholder who currently~~
916 ~~has a wind-only policy with the corporation, and an ex-wind~~
917 ~~policy with a voluntary insurer or the corporation, and who~~
918 ~~obtains a multiperil policy from the corporation. It is the~~
919 ~~intent of the Legislature that the offer of multiperil coverage~~
920 ~~in the coastal account be made and implemented in a manner that~~
921 ~~does not adversely affect the tax-exempt status of the~~
922 ~~corporation or creditworthiness of or security for currently~~
923 ~~outstanding financing obligations or credit facilities of the~~
924 ~~coastal account, the personal lines account, or the commercial~~
925 ~~lines account. The coastal account must also include quota share~~
926 ~~primary insurance under subparagraph (c)2.~~

927
928 The area eligible for coverage with the corporation under this

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929 ~~sub-subparagraph under the coastal account~~ also includes the
930 area within Port Canaveral, which is bordered on the south by
931 the City of Cape Canaveral, bordered on the west by the Banana
932 River, and bordered on the north by Federal Government property.

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

934 a. Upon a determination by the board of governors that the
935 Citizens account has a projected deficit, the board shall levy a
936 Citizens policyholder surcharge against all policyholders of the
937 corporation.

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

941 (II) The surcharge is payable upon cancellation or
942 termination of the policy, upon renewal of the policy, or upon
943 issuance of a new policy by the corporation within the first 12
944 months after the date of the levy or the period of time
945 necessary to fully collect the surcharge amount.

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

949 ~~b. The three separate accounts must be maintained as long~~
950 ~~as financing obligations entered into by the Florida Windstorm~~
951 ~~Underwriting Association or Residential Property and Casualty~~
952 ~~Joint Underwriting Association are outstanding, in accordance~~
953 ~~with the terms of the corresponding financing documents. If no~~
954 ~~such financing obligations remain outstanding or if the~~
955 ~~financing documents allow for combining of accounts, the~~
956 ~~corporation may consolidate the three separate accounts into a~~
957 ~~new account, to be known as the Citizens account, for all~~

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958 ~~revenues, assets, liabilities, losses, and expenses of the~~
959 ~~corporation. The Citizens account, if established by the~~
960 ~~corporation, is authorized to provide coverage to the same~~
961 ~~extent as provided under each of the three separate accounts.~~
962 ~~The authority to provide coverage under the Citizens account is~~
963 ~~set forth in subparagraph 4. Consistent with this subparagraph~~
964 ~~and prudent investment policies that minimize the cost of~~
965 ~~carrying debt, the board shall exercise its best efforts to~~
966 ~~retire existing debt or obtain the approval of necessary parties~~
967 ~~to amend the terms of existing debt, so as to structure the most~~
968 ~~efficient plan for consolidating the three separate accounts~~
969 ~~into a single account. Once the accounts are combined into one~~
970 ~~account, this subparagraph and subparagraph 3. shall be replaced~~
971 ~~in their entirety by subparagraphs 4. and 5.~~

972 ~~e. Creditors of the Residential Property and Casualty Joint~~
973 ~~Underwriting Association and the accounts specified in sub-sub-~~
974 ~~subparagraphs a. (I) and (II) may have a claim against, and~~
975 ~~recourse to, those accounts and no claim against, or recourse~~
976 ~~to, the account referred to in sub-sub-subparagraph a. (III).~~
977 ~~Creditors of the Florida Windstorm Underwriting Association have~~
978 ~~a claim against, and recourse to, the account referred to in~~
979 ~~sub-sub-subparagraph a. (III) and no claim against, or recourse~~
980 ~~to, the accounts referred to in sub-sub-subparagraphs a. (I) and~~
981 ~~(II).~~

982 ~~d. Revenues, assets, liabilities, losses, and expenses not~~
983 ~~attributable to particular accounts shall be prorated among the~~
984 ~~accounts.~~

985 ~~e. The Legislature finds that the revenues of the~~
986 ~~corporation are revenues that are necessary to meet the~~

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987 ~~requirements set forth in documents authorizing the issuance of~~
988 ~~bonds under this subsection.~~

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

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

992 ~~a. After accounting for the Citizens policyholder surcharge~~
993 ~~imposed under sub-subparagraph j., if the remaining projected~~
994 ~~deficit incurred in the coastal account in a particular calendar~~
995 ~~year:~~

996 ~~(I) Is not greater than 2 percent of the aggregate~~
997 ~~statewide direct written premium for the subject lines of~~
998 ~~business for the prior calendar year, the entire deficit shall~~
999 ~~be recovered through regular assessments of assessable insurers~~
1000 ~~under paragraph (q) and assessable insureds.~~

1001 ~~(II) Exceeds 2 percent of the aggregate statewide direct~~
1002 ~~written premium for the subject lines of business for the prior~~
1003 ~~calendar year, the corporation shall levy regular assessments on~~
1004 ~~assessable insurers under paragraph (q) and on assessable~~
1005 ~~insureds in an amount equal to the greater of 2 percent of the~~
1006 ~~projected deficit or 2 percent of the aggregate statewide direct~~
1007 ~~written premium for the subject lines of business for the prior~~
1008 ~~calendar year. Any remaining projected deficit shall be~~
1009 ~~recovered through emergency assessments under sub-subparagraph~~
1010 ~~e.~~

1011 ~~b. Each assessable insurer's share of the amount being~~
1012 ~~assessed under sub-subparagraph a. must be in the proportion~~
1013 ~~that the assessable insurer's direct written premium for the~~
1014 ~~subject lines of business for the year preceding the assessment~~
1015 ~~bears to the aggregate statewide direct written premium for the~~

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1016 ~~subject lines of business for that year. The assessment~~
1017 ~~percentage applicable to each assessable insured is the ratio of~~
1018 ~~the amount being assessed under sub-subparagraph a. to the~~
1019 ~~aggregate statewide direct written premium for the subject lines~~
1020 ~~of business for the prior year. Assessments levied by the~~
1021 ~~corporation on assessable insurers under sub-subparagraph a.~~
1022 ~~must be paid as required by the corporation's plan of operation~~
1023 ~~and paragraph (q). Assessments levied by the corporation on~~
1024 ~~assessable insureds under sub-subparagraph a. shall be collected~~
1025 ~~by the surplus lines agent at the time the surplus lines agent~~
1026 ~~collects the surplus lines tax required by s. 626.932, and paid~~
1027 ~~to the Florida Surplus Lines Service Office at the time the~~
1028 ~~surplus lines agent pays the surplus lines tax to that office.~~
1029 ~~Upon receipt of regular assessments from surplus lines agents,~~
1030 ~~the Florida Surplus Lines Service Office shall transfer the~~
1031 ~~assessments directly to the corporation as determined by the~~
1032 ~~corporation.~~

1033 ~~e. The corporation may not levy regular assessments under~~
1034 ~~paragraph (q) pursuant to sub-subparagraph a. or sub-~~
1035 ~~subparagraph b. if the three separate accounts in sub-sub-~~
1036 ~~subparagraphs 2.a.(I)-(III) have been consolidated into the~~
1037 ~~Citizens account pursuant to sub-subparagraph 2.b. However, the~~
1038 ~~outstanding balance of any regular assessment levied by the~~
1039 ~~corporation before establishment of the Citizens account remains~~
1040 ~~payable to the corporation.~~

1041 ~~b.d.~~ After accounting for the Citizens policyholder
1042 surcharge imposed under sub-subparagraph a. j., the remaining
1043 projected deficits in the Citizens ~~personal~~ lines account and in
1044 the ~~commercial~~ lines account in a particular calendar year shall

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1045 be recovered through emergency assessments under sub-
1046 subparagraph c. ~~e.~~

1047 c.e. Upon a determination by the board of governors that a
1048 projected deficit in the Citizens ~~an~~ account exceeds the amount
1049 that is expected to be recovered through surcharges ~~regular~~
1050 ~~assessments under sub-subparagraph a., plus the amount that is~~
1051 ~~expected to be recovered through surcharges under sub-~~
1052 ~~subparagraph j.,~~ the board, after verification by the office,
1053 shall levy emergency assessments for as many years as necessary
1054 to cover the deficits, to be collected by assessable insurers
1055 and the corporation and collected from assessable insureds upon
1056 issuance or renewal of policies for subject lines of business,
1057 excluding National Flood Insurance Program policies. The amount
1058 collected in a particular year must be a uniform percentage of
1059 that year's direct written premium for subject lines of business
1060 and the Citizens account ~~all accounts of the corporation,~~
1061 excluding National Flood Insurance Program policy premiums, as
1062 annually determined by the board and verified by the office. The
1063 office shall verify the arithmetic calculations involved in the
1064 board's determination within 30 days after receipt of the
1065 information on which the determination was based. The office
1066 shall notify assessable insurers and the Florida Surplus Lines
1067 Service Office of the date on which assessable insurers shall
1068 begin to collect and assessable insureds shall begin to pay such
1069 assessment. The date must be at least 90 days after the date the
1070 corporation levies emergency assessments pursuant to this sub-
1071 subparagraph. Notwithstanding any other ~~provision of~~ law, the
1072 corporation and each assessable insurer that writes subject
1073 lines of business shall collect emergency assessments from its

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1074 policyholders without such obligation being affected by any
1075 credit, limitation, exemption, or deferment. Emergency
1076 assessments levied by the corporation on assessable insureds
1077 shall be collected by the surplus lines agent at the time the
1078 surplus lines agent collects the surplus lines tax required by
1079 s. 626.932 and paid to the Florida Surplus Lines Service Office
1080 at the time the surplus lines agent pays the surplus lines tax
1081 to that office. The emergency assessments collected shall be
1082 transferred directly to the corporation on a periodic basis as
1083 determined by the corporation and held by the corporation solely
1084 in the Citizens ~~applicable~~ account. The aggregate amount of
1085 emergency assessments levied for the Citizens ~~an~~ account in any
1086 calendar year may be less than but may not exceed the greater of
1087 10 percent of the amount needed to cover the deficit, plus
1088 interest, fees, commissions, required reserves, and other costs
1089 associated with financing the original deficit, or 10 percent of
1090 the aggregate statewide direct written premium for subject lines
1091 of business and the Citizens account ~~all accounts~~ of the
1092 corporation for the prior year, plus interest, fees,
1093 commissions, required reserves, and other costs associated with
1094 financing the deficit.

1095 d.f. The corporation may pledge the proceeds of
1096 assessments, projected recoveries from the Florida Hurricane
1097 Catastrophe Fund, other insurance and reinsurance recoverables,
1098 policyholder surcharges and other surcharges, and other funds
1099 available to the corporation as the source of revenue for and to
1100 secure bonds issued under paragraph (q), bonds or other
1101 indebtedness issued under subparagraph (c)3., or lines of credit
1102 or other financing mechanisms issued or created under this

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1103 subsection, or to retire any other debt incurred as a result of
1104 deficits or events giving rise to deficits, or in any other way
1105 that the board determines will efficiently recover such
1106 deficits. The purpose of the lines of credit or other financing
1107 mechanisms is to provide additional resources to assist the
1108 corporation in covering claims and expenses attributable to a
1109 catastrophe. As used in this subsection, the term "assessments"
1110 includes emergency ~~regular~~ assessments under sub-subparagraph c.
1111 ~~a. or subparagraph (q)1. and emergency assessments under sub-~~
1112 ~~subparagraph e.~~ Emergency assessments collected under sub-
1113 subparagraph c. ~~e.~~ are not part of an insurer's rates, are not
1114 premium, and are not subject to premium tax, fees, or
1115 commissions; however, failure to pay the emergency assessment
1116 shall be treated as failure to pay premium. The emergency
1117 assessments shall continue as long as any bonds issued or other
1118 indebtedness incurred with respect to a deficit for which the
1119 assessment was imposed remain outstanding, unless adequate
1120 provision has been made for the payment of such bonds or other
1121 indebtedness pursuant to the documents governing such bonds or
1122 indebtedness.

1123 ~~e.g.~~ As used in this subsection and for purposes of any
1124 deficit incurred on or after January 25, 2007, the term "subject
1125 lines of business" means insurance written by assessable
1126 insurers or procured by assessable insureds for all property and
1127 casualty lines of business in this state, but not including
1128 workers' compensation or medical malpractice. As used in this
1129 sub-subparagraph, the term "property and casualty lines of
1130 business" includes all lines of business identified on Form 2,
1131 Exhibit of Premiums and Losses, in the annual statement required

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1132 of authorized insurers under s. 624.424 and any rule adopted
1133 under this section, except for those lines identified as
1134 accident and health insurance and except for policies written
1135 under the National Flood Insurance Program or the Federal Crop
1136 Insurance Program. For purposes of this sub-subparagraph, the
1137 term "workers' compensation" includes both workers' compensation
1138 insurance and excess workers' compensation insurance.

1139 ~~f.h.~~ The Florida Surplus Lines Service Office shall
1140 annually determine ~~annually~~ the aggregate statewide written
1141 premium in subject lines of business procured by assessable
1142 insureds and report that information to the corporation in a
1143 form and at a time the corporation specifies to ensure that the
1144 corporation can meet the requirements of this subsection and the
1145 corporation's financing obligations.

1146 ~~g.i.~~ The Florida Surplus Lines Service Office shall verify
1147 the proper application by surplus lines agents of assessment
1148 percentages for ~~regular assessments and~~ emergency assessments
1149 levied under this subparagraph on assessable insureds and assist
1150 the corporation in ensuring the accurate, timely collection and
1151 payment of assessments by surplus lines agents as required by
1152 the corporation.

1153 ~~j. Upon determination by the board of governors that an~~
1154 ~~account has a projected deficit, the board shall levy a Citizens~~
1155 ~~policyholder surcharge against all policyholders of the~~
1156 ~~corporation.~~

1157 ~~(I) The surcharge shall be levied as a uniform percentage~~
1158 ~~of the premium for the policy of up to 15 percent of such~~
1159 ~~premium, which funds shall be used to offset the deficit.~~

1160 ~~(II) The surcharge is payable upon cancellation or~~

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1161 ~~termination of the policy, upon renewal of the policy, or upon~~
1162 ~~issuance of a new policy by the corporation within the first 12~~
1163 ~~months after the date of the levy or the period of time~~
1164 ~~necessary to fully collect the surcharge amount.~~

1165 ~~(III) The corporation may not levy any regular assessments~~
1166 ~~under paragraph (q) pursuant to sub-subparagraph a. or sub-~~
1167 ~~subparagraph b. with respect to a particular year's deficit~~
1168 ~~until the corporation has first levied the full amount of the~~
1169 ~~surcharge authorized by this sub-subparagraph.~~

1170 ~~(IV) The surcharge is not considered premium and is not~~
1171 ~~subject to commissions, fees, or premium taxes. However, failure~~
1172 ~~to pay the surcharge shall be treated as failure to pay premium.~~

1173 h.k. If the amount of any assessments or surcharges
1174 collected from corporation policyholders, assessable insurers or
1175 their policyholders, or assessable insureds exceeds the amount
1176 of the deficits, such excess amounts shall be remitted to and
1177 retained by the corporation in a reserve to be used by the
1178 corporation, as determined by the board of governors and
1179 approved by the office, to pay claims or reduce any past,
1180 present, or future plan-year deficits or to reduce outstanding
1181 debt.

1182 ~~4. The Citizens account, if established by the corporation~~
1183 ~~pursuant to sub-subparagraph 2.b., is authorized to provide:~~

1184 ~~a. Personal residential policies that provide~~
1185 ~~comprehensive, multiperil coverage on risks that are not located~~
1186 ~~in areas eligible for coverage by the Florida Windstorm~~
1187 ~~Underwriting Association, as those areas were defined on January~~
1188 ~~1, 2002, and for policies that do not provide coverage for the~~
1189 ~~peril of wind on risks that are located in such areas;~~

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1190 ~~b. Commercial residential and commercial nonresidential~~
1191 ~~policies that provide coverage for basic property perils on~~
1192 ~~risks that are not located in areas eligible for coverage by the~~
1193 ~~Florida Windstorm Underwriting Association, as those areas were~~
1194 ~~defined on January 1, 2002, and for policies that do not provide~~
1195 ~~coverage for the peril of wind on risks that are located in such~~
1196 ~~areas; and~~

1197 ~~e. Personal residential policies and commercial residential~~
1198 ~~and commercial nonresidential property policies that provide~~
1199 ~~coverage for the peril of wind on risks that are located in~~
1200 ~~areas eligible for coverage by the Florida Windstorm~~
1201 ~~Underwriting Association, as those areas were defined on January~~
1202 ~~1, 2002. The corporation may offer policies that provide~~
1203 ~~multiperil coverage and shall offer policies that provide~~
1204 ~~coverage only for the peril of wind for risks located in areas~~
1205 ~~eligible for coverage by the Florida Windstorm Underwriting~~
1206 ~~Association, as those areas were defined on January 1, 2002. The~~
1207 ~~corporation may not offer new commercial residential policies~~
1208 ~~providing multiperil coverage, but shall continue to offer~~
1209 ~~commercial residential wind-only policies, and may offer~~
1210 ~~commercial residential policies excluding wind. However, the~~
1211 ~~corporation may continue to renew a commercial residential~~
1212 ~~multiperil policy on a building that was insured by the~~
1213 ~~corporation on June 30, 2014, under a multiperil policy. In~~
1214 ~~issuing multiperil coverage under this sub-subparagraph, the~~
1215 ~~corporation may use its approved policy forms and rates for~~
1216 ~~risks located in areas not eligible for coverage by the Florida~~
1217 ~~Windstorm Underwriting Association as those areas were defined~~
1218 ~~on January 1, 2002, and for policies that do not provide~~

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1219 ~~coverage for the peril of wind on risks that are located in such~~
1220 ~~areas. An applicant or insured who is eligible to purchase a~~
1221 ~~multiperil policy from the corporation may purchase a multiperil~~
1222 ~~policy from an authorized insurer without prejudice to the~~
1223 ~~applicant's or insured's eligibility to prospectively purchase a~~
1224 ~~policy that provides coverage only for the peril of wind from~~
1225 ~~the corporation. An applicant or insured who is eligible for a~~
1226 ~~corporation policy that provides coverage only for the peril of~~
1227 ~~wind may elect to purchase or retain such policy and also~~
1228 ~~purchase or retain coverage excluding wind from an authorized~~
1229 ~~insurer without prejudice to the applicant's or insured's~~
1230 ~~eligibility to prospectively purchase a policy that provides~~
1231 ~~multiperil coverage from the corporation. The following~~
1232 ~~policies, which provide coverage only for the peril of wind,~~
1233 ~~must also include quota share primary insurance under~~
1234 ~~subparagraph (c)2.: Personal residential policies and commercial~~
1235 ~~residential and commercial nonresidential property policies that~~
1236 ~~provide coverage for the peril of wind on risks that are located~~
1237 ~~in areas eligible for coverage by the Florida Windstorm~~
1238 ~~Underwriting Association, as those areas were defined on January~~
1239 ~~1, 2002; policies that provide multiperil coverage, if offered~~
1240 ~~by the corporation, and policies that provide coverage only for~~
1241 ~~the peril of wind for risks located in areas eligible for~~
1242 ~~coverage by the Florida Windstorm Underwriting Association, as~~
1243 ~~those areas were defined on January 1, 2002; commercial~~
1244 ~~residential wind-only policies; commercial residential policies~~
1245 ~~excluding wind, if offered by the corporation; and commercial~~
1246 ~~residential multiperil policies on a building that was insured~~
1247 ~~by the corporation on June 30, 2014. The area eligible for~~

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1248 ~~coverage with the corporation under this sub-subparagraph~~
1249 ~~includes the area within Port Canaveral, which is bordered on~~
1250 ~~the south by the City of Cape Canaveral, bordered on the west by~~
1251 ~~the Banana River, and bordered on the north by Federal~~
1252 ~~Government property.~~

1253 ~~5. With respect to a deficit in the Citizens account:~~

1254 ~~a. Upon a determination by the board of governors that the~~
1255 ~~Citizens account has a projected deficit, the board shall levy a~~
1256 ~~Citizens policyholder surcharge against all policyholders of the~~
1257 ~~corporation.~~

1258 ~~(I) The surcharge shall be levied as a uniform percentage~~
1259 ~~of the premium for the policy of up to 15 percent of such~~
1260 ~~premium, which funds shall be used to offset the deficit.~~

1261 ~~(II) The surcharge is payable upon cancellation or~~
1262 ~~termination of the policy, upon renewal of the policy, or upon~~
1263 ~~issuance of a new policy by the corporation within the first 12~~
1264 ~~months after the date of the levy or the period of time~~
1265 ~~necessary to fully collect the surcharge amount.~~

1266 ~~(III) The surcharge is not considered premium and is not~~
1267 ~~subject to commissions, fees, or premium taxes. However, failure~~
1268 ~~to pay the surcharge shall be treated as failure to pay premium.~~

1269 ~~b. After accounting for the Citizens policyholder surcharge~~
1270 ~~imposed under sub-subparagraph a., the remaining projected~~
1271 ~~deficit incurred in the Citizens account in a particular~~
1272 ~~calendar year shall be recovered through emergency assessments~~
1273 ~~under sub-subparagraph c.~~

1274 ~~e. Upon a determination by the board of governors that a~~
1275 ~~projected deficit in the Citizens account exceeds the amount~~
1276 ~~that is expected to be recovered through surcharges under sub-~~

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1277 ~~subparagraph a., the board, after verification by the office,~~
1278 ~~shall levy emergency assessments for as many years as necessary~~
1279 ~~to cover the deficits, to be collected by assessable insurers~~
1280 ~~and the corporation and collected from assessable insureds upon~~
1281 ~~issuance or renewal of policies for subject lines of business,~~
1282 ~~excluding National Flood Insurance Program policies. The amount~~
1283 ~~collected in a particular year must be a uniform percentage of~~
1284 ~~that year's direct written premium for subject lines of business~~
1285 ~~and the Citizens account, National Flood Insurance Program~~
1286 ~~policy premiums, as annually determined by the board and~~
1287 ~~verified by the office. The office shall verify the arithmetic~~
1288 ~~calculations involved in the board's determination within 30~~
1289 ~~days after receipt of the information on which the determination~~
1290 ~~was based. The office shall notify assessable insurers and the~~
1291 ~~Florida Surplus Lines Service Office of the date on which~~
1292 ~~assessable insurers shall begin to collect and assessable~~
1293 ~~insureds shall begin to pay such assessment. The date must be at~~
1294 ~~least 90 days after the date the corporation levies emergency~~
1295 ~~assessments pursuant to this sub-subparagraph. Notwithstanding~~
1296 ~~any other law, the corporation and each assessable insurer that~~
1297 ~~writes subject lines of business shall collect emergency~~
1298 ~~assessments from its policyholders without such obligation being~~
1299 ~~affected by any credit, limitation, exemption, or deferment.~~
1300 ~~Emergency assessments levied by the corporation on assessable~~
1301 ~~insureds shall be collected by the surplus lines agent at the~~
1302 ~~time the surplus lines agent collects the surplus lines tax~~
1303 ~~required by s. 626.932 and paid to the Florida Surplus Lines~~
1304 ~~Service Office at the time the surplus lines agent pays the~~
1305 ~~surplus lines tax to that office. The emergency assessments~~

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1306 ~~collected shall be transferred directly to the corporation on a~~
1307 ~~periodic basis as determined by the corporation and held by the~~
1308 ~~corporation solely in the Citizens account. The aggregate amount~~
1309 ~~of emergency assessments levied for the Citizens account in any~~
1310 ~~calendar year may be less than, but may not exceed the greater~~
1311 ~~of, 10 percent of the amount needed to cover the deficit, plus~~
1312 ~~interest, fees, commissions, required reserves, and other costs~~
1313 ~~associated with financing the original deficit or 10 percent of~~
1314 ~~the aggregate statewide direct written premium for subject lines~~
1315 ~~of business and the Citizens accounts for the prior year, plus~~
1316 ~~interest, fees, commissions, required reserves, and other costs~~
1317 ~~associated with financing the deficit.~~

1318 ~~d. The corporation may pledge the proceeds of assessments,~~
1319 ~~projected recoveries from the Florida Hurricane Catastrophe~~
1320 ~~Fund, other insurance and reinsurance recoverables, policyholder~~
1321 ~~surcharges and other surcharges, and other funds available to~~
1322 ~~the corporation as the source of revenue for and to secure bonds~~
1323 ~~issued under paragraph (q), bonds or other indebtedness issued~~
1324 ~~under subparagraph (c)3., or lines of credit or other financing~~
1325 ~~mechanisms issued or created under this subsection; or to retire~~
1326 ~~any other debt incurred as a result of deficits or events giving~~
1327 ~~rise to deficits, or in any other way that the board determines~~
1328 ~~will efficiently recover such deficits. The purpose of the lines~~
1329 ~~of credit or other financing mechanisms is to provide additional~~
1330 ~~resources to assist the corporation in covering claims and~~
1331 ~~expenses attributable to a catastrophe. As used in this~~
1332 ~~subsection, the term "assessments" includes emergency~~
1333 ~~assessments under sub-subparagraph c. Emergency assessments~~
1334 ~~collected under sub-subparagraph c. are not part of an insurer's~~

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1335 ~~rates, are not premium, and are not subject to premium tax,~~
1336 ~~fees, or commissions; however, failure to pay the emergency~~
1337 ~~assessment shall be treated as failure to pay premium. The~~
1338 ~~emergency assessments shall continue as long as any bonds issued~~
1339 ~~or other indebtedness incurred with respect to a deficit for~~
1340 ~~which the assessment was imposed remain outstanding, unless~~
1341 ~~adequate provision has been made for the payment of such bonds~~
1342 ~~or other indebtedness pursuant to the documents governing such~~
1343 ~~bonds or indebtedness.~~

1344 ~~e. As used in this subsection and for purposes of any~~
1345 ~~deficit incurred on or after January 25, 2007, the term "subject~~
1346 ~~lines of business" means insurance written by assessable~~
1347 ~~insurers or procured by assessable insureds for all property and~~
1348 ~~casualty lines of business in this state, but not including~~
1349 ~~workers' compensation or medical malpractice. As used in this~~
1350 ~~sub-subparagraph, the term "property and casualty lines of~~
1351 ~~business" includes all lines of business identified on Form 2,~~
1352 ~~Exhibit of Premiums and Losses, in the annual statement required~~
1353 ~~of authorized insurers under s. 624.424 and any rule adopted~~
1354 ~~under this section, except for those lines identified as~~
1355 ~~accident and health insurance and except for policies written~~
1356 ~~under the National Flood Insurance Program or the Federal Crop~~
1357 ~~Insurance Program. For purposes of this sub-subparagraph, the~~
1358 ~~term "workers' compensation" includes both workers' compensation~~
1359 ~~insurance and excess workers' compensation insurance.~~

1360 ~~f. The Florida Surplus Lines Service Office shall annually~~
1361 ~~determine the aggregate statewide written premium in subject~~
1362 ~~lines of business procured by assessable insureds and report~~
1363 ~~that information to the corporation in a form and at a time the~~

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1364 ~~corporation specifies to ensure that the corporation can meet~~
1365 ~~the requirements of this subsection and the corporation's~~
1366 ~~financing obligations.~~

1367 ~~g. The Florida Surplus Lines Service Office shall verify~~
1368 ~~the proper application by surplus lines agents of assessment~~
1369 ~~percentages for emergency assessments levied under this~~
1370 ~~subparagraph on assessable insureds and assist the corporation~~
1371 ~~in ensuring the accurate, timely collection and payment of~~
1372 ~~assessments by surplus lines agents as required by the~~
1373 ~~corporation.~~

1374 ~~h. If the amount of any assessments or surcharges collected~~
1375 ~~from corporation policyholders, assessable insurers or their~~
1376 ~~policyholders, or assessable insureds exceeds the amount of the~~
1377 ~~deficits, such excess amounts shall be remitted to and retained~~
1378 ~~by the corporation in a reserve to be used by the corporation,~~
1379 ~~as determined by the board of governors and approved by the~~
1380 ~~office, to pay claims or reduce any past, present, or future~~
1381 ~~plan year deficits or to reduce outstanding debt.~~

1382 (c) The corporation's plan of operation:

1383 1. Must provide for adoption of residential property and
1384 casualty insurance policy forms and commercial residential and
1385 nonresidential property insurance forms, which must be approved
1386 by the office before use. The corporation shall adopt the
1387 following policy forms:

1388 a. Standard personal lines policy forms that are
1389 comprehensive multiperil policies providing full coverage of a
1390 residential property equivalent to the coverage provided in the
1391 private insurance market under an HO-3, HO-4, or HO-6 policy.

1392 b. Basic personal lines policy forms that are policies

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1393 similar to an HO-8 policy or a dwelling fire policy that provide
1394 coverage meeting the requirements of the secondary mortgage
1395 market, but which is more limited than the coverage under a
1396 standard policy.

1397 c. Commercial lines residential and nonresidential policy
1398 forms that are generally similar to the basic perils of full
1399 coverage obtainable for commercial residential structures and
1400 commercial nonresidential structures in the admitted voluntary
1401 market.

1402 d. Personal lines and commercial lines residential property
1403 insurance forms that cover the peril of wind only. The forms are
1404 applicable only to residential properties located in areas
1405 eligible for coverage by the Florida Windstorm Underwriting
1406 Association, as those areas were defined on January 1, 2002.

1407 e. Commercial lines nonresidential property insurance forms
1408 that cover the peril of wind only. The forms are applicable only
1409 to nonresidential properties located in areas eligible for
1410 coverage by the Florida Windstorm Underwriting Association, as
1411 those areas were defined on January 1, 2002.

1412 f. The corporation may adopt variations of the policy forms
1413 listed in sub-subparagraphs a.-e. which contain more restrictive
1414 coverage.

1415 g. The corporation shall offer a basic personal lines
1416 policy similar to an HO-8 policy with dwelling repair based on
1417 common construction materials and methods.

1418 2. Must provide that the corporation adopt a program in
1419 which the corporation and authorized insurers enter into quota
1420 share primary insurance agreements for hurricane coverage, as
1421 defined in s. 627.4025(2)(a), for eligible risks, and adopt

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1422 property insurance forms for eligible risks which cover the
1423 peril of wind only.

1424 a. As used in this subsection, the term:

1425 (I) "Approved surplus lines insurer" means an eligible
1426 surplus lines insurer that:

1427 (A) Has a financial strength rating of "A-" or higher from
1428 A.M. Best Company;

1429 (B) Has a personal lines residential risk program that is
1430 managed by a Florida resident surplus lines broker;

1431 (C) Applies to the office to participate in the take-out
1432 process to offer coverage to applicants for new coverage from
1433 the corporation or current policyholders of the corporation
1434 through a take-out plan approved by the office;

1435 (D) Files rates for review as part of a take-out plan with
1436 the office. The office shall review whether the premium is more
1437 than 20 percent greater than the premium for comparable coverage
1438 from the corporation; and

1439 (E) Provides data to the office related to coverage and
1440 rates in a format promulgated by the commission.

1441 (III) "Primary residence" means the dwelling that is the
1442 policyholder's primary home or is a rental property that is the
1443 primary home of the tenant, and which the policyholder or tenant
1444 occupies for more than 9 months of each year.

1445 (IV) ~~(I)~~ "Quota share primary insurance" means an
1446 arrangement in which the primary hurricane coverage of an
1447 eligible risk is provided in specified percentages by the
1448 corporation and an authorized insurer. The corporation and
1449 authorized insurer are each solely responsible for a specified
1450 percentage of hurricane coverage of an eligible risk as set

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1451 forth in a quota share primary insurance agreement between the
1452 corporation and an authorized insurer and the insurance
1453 contract. The responsibility of the corporation or authorized
1454 insurer to pay its specified percentage of hurricane losses of
1455 an eligible risk, as set forth in the agreement, may not be
1456 altered by the inability of the other party to pay its specified
1457 percentage of losses. Eligible risks that are provided hurricane
1458 coverage through a quota share primary insurance arrangement
1459 must be provided policy forms that set forth the obligations of
1460 the corporation and authorized insurer under the arrangement,
1461 clearly specify the percentages of quota share primary insurance
1462 provided by the corporation and authorized insurer, and
1463 conspicuously and clearly state that the authorized insurer and
1464 the corporation may not be held responsible beyond their
1465 specified percentage of coverage of hurricane losses.

1466 (II) "Eligible risks" means personal lines residential and
1467 commercial lines residential risks that meet the underwriting
1468 criteria of the corporation and are located in areas that were
1469 eligible for coverage by the Florida Windstorm Underwriting
1470 Association on January 1, 2002.

1471 b. The corporation may enter into quota share primary
1472 insurance agreements with authorized insurers at corporation
1473 coverage levels of 90 percent and 50 percent.

1474 c. If the corporation determines that additional coverage
1475 levels are necessary to maximize participation in quota share
1476 primary insurance agreements by authorized insurers, the
1477 corporation may establish additional coverage levels. However,
1478 the corporation's quota share primary insurance coverage level
1479 may not exceed 90 percent.

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1480 d. Any quota share primary insurance agreement entered into
1481 between an authorized insurer and the corporation must provide
1482 for a uniform specified percentage of coverage of hurricane
1483 losses, by county or territory as set forth by the corporation
1484 board, for all eligible risks of the authorized insurer covered
1485 under the agreement.

1486 e. Any quota share primary insurance agreement entered into
1487 between an authorized insurer and the corporation is subject to
1488 review and approval by the office. However, such agreement shall
1489 be authorized only as to insurance contracts entered into
1490 between an authorized insurer and an insured who is already
1491 insured by the corporation for wind coverage.

1492 f. For all eligible risks covered under quota share primary
1493 insurance agreements, the exposure and coverage levels for both
1494 the corporation and authorized insurers shall be reported by the
1495 corporation to the Florida Hurricane Catastrophe Fund. For all
1496 policies of eligible risks covered under such agreements, the
1497 corporation and the authorized insurer must maintain complete
1498 and accurate records for the purpose of exposure and loss
1499 reimbursement audits as required by fund rules. The corporation
1500 and the authorized insurer shall each maintain duplicate copies
1501 of policy declaration pages and supporting claims documents.

1502 g. The corporation board shall establish in its plan of
1503 operation standards for quota share agreements which ensure that
1504 there is no discriminatory application among insurers as to the
1505 terms of the agreements, pricing of the agreements, incentive
1506 provisions if any, and consideration paid for servicing policies
1507 or adjusting claims.

1508 h. The quota share primary insurance agreement between the

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1509 corporation and an authorized insurer must set forth the
1510 specific terms under which coverage is provided, including, but
1511 not limited to, the sale and servicing of policies issued under
1512 the agreement by the insurance agent of the authorized insurer
1513 producing the business, the reporting of information concerning
1514 eligible risks, the payment of premium to the corporation, and
1515 arrangements for the adjustment and payment of hurricane claims
1516 incurred on eligible risks by the claims adjuster and personnel
1517 of the authorized insurer. Entering into a quota sharing
1518 insurance agreement between the corporation and an authorized
1519 insurer is voluntary and at the discretion of the authorized
1520 insurer.

1521 3. May provide that the corporation may employ or otherwise
1522 contract with individuals or other entities to provide
1523 administrative or professional services that may be appropriate
1524 to effectuate the plan. The corporation may borrow funds by
1525 issuing bonds or by incurring other indebtedness, and shall have
1526 other powers reasonably necessary to effectuate the requirements
1527 of this subsection, including, without limitation, the power to
1528 issue bonds and incur other indebtedness in order to refinance
1529 outstanding bonds or other indebtedness. The corporation may
1530 seek judicial validation of its bonds or other indebtedness
1531 under chapter 75. The corporation may issue bonds or incur other
1532 indebtedness, or have bonds issued on its behalf by a unit of
1533 local government pursuant to subparagraph (q)2. in the absence
1534 of a hurricane or other weather-related event, upon a
1535 determination by the corporation, subject to approval by the
1536 office, that such action would enable it to efficiently meet the
1537 financial obligations of the corporation and that such

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1538 financings are reasonably necessary to effectuate the
1539 requirements of this subsection. The corporation may take all
1540 actions needed to facilitate tax-free status for such bonds or
1541 indebtedness, including formation of trusts or other affiliated
1542 entities. The corporation may pledge assessments, projected
1543 recoveries from the Florida Hurricane Catastrophe Fund, other
1544 reinsurance recoverables, policyholder surcharges and other
1545 surcharges, and other funds available to the corporation as
1546 security for bonds or other indebtedness. In recognition of s.
1547 10, Art. I of the State Constitution, prohibiting the impairment
1548 of obligations of contracts, it is the intent of the Legislature
1549 that no action be taken whose purpose is to impair any bond
1550 indenture or financing agreement or any revenue source committed
1551 by contract to such bond or other indebtedness.

1552 4. Must require that the corporation operate subject to the
1553 supervision and approval of a board of governors consisting of
1554 nine individuals who are residents of this state and who are
1555 from different geographical areas of the state, one of whom is
1556 appointed by the Governor and serves solely to advocate on
1557 behalf of the consumer. The appointment of a consumer
1558 representative by the Governor is deemed to be within the scope
1559 of the exemption provided in s. 112.313(7)(b) and is in addition
1560 to the appointments authorized under sub-subparagraph a.

1561 a. The Governor, the Chief Financial Officer, the President
1562 of the Senate, and the Speaker of the House of Representatives
1563 shall each appoint two members of the board. At least one of the
1564 two members appointed by each appointing officer must have
1565 demonstrated expertise in insurance and be deemed to be within
1566 the scope of the exemption provided in s. 112.313(7)(b). The

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1567 Chief Financial Officer shall designate one of the appointees as
1568 chair. All board members serve at the pleasure of the appointing
1569 officer. All members of the board are subject to removal at will
1570 by the officers who appointed them. All board members, including
1571 the chair, must be appointed to serve for 3-year terms beginning
1572 annually on a date designated by the plan. However, for the
1573 first term beginning on or after July 1, 2009, each appointing
1574 officer shall appoint one member of the board for a 2-year term
1575 and one member for a 3-year term. A board vacancy shall be
1576 filled for the unexpired term by the appointing officer. The
1577 Chief Financial Officer shall appoint a technical advisory group
1578 to provide information and advice to the board in connection
1579 with the board's duties under this subsection. The executive
1580 director and senior managers of the corporation shall be engaged
1581 by the board and serve at the pleasure of the board. Any
1582 executive director appointed on or after July 1, 2006, is
1583 subject to confirmation by the Senate. The executive director is
1584 responsible for employing other staff as the corporation may
1585 require, subject to review and concurrence by the board.

1586 b. The board shall create a Market Accountability Advisory
1587 Committee to assist the corporation in developing awareness of
1588 its rates and its customer and agent service levels in
1589 relationship to the voluntary market insurers writing similar
1590 coverage.

1591 (I) The members of the advisory committee consist of the
1592 following 11 persons, one of whom must be elected chair by the
1593 members of the committee: four representatives, one appointed by
1594 the Florida Association of Insurance Agents, one by the Florida
1595 Association of Insurance and Financial Advisors, one by the

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1596 Professional Insurance Agents of Florida, and one by the Latin
1597 American Association of Insurance Agencies; three
1598 representatives appointed by the insurers with the three highest
1599 voluntary market share of residential property insurance
1600 business in the state; one representative from the Office of
1601 Insurance Regulation; one consumer appointed by the board who is
1602 insured by the corporation at the time of appointment to the
1603 committee; one representative appointed by the Florida
1604 Association of Realtors; and one representative appointed by the
1605 Florida Bankers Association. All members shall be appointed to
1606 3-year terms and may serve for consecutive terms.

1607 (II) The committee shall report to the corporation at each
1608 board meeting on insurance market issues which may include rates
1609 and rate competition with the voluntary market; service,
1610 including policy issuance, claims processing, and general
1611 responsiveness to policyholders, applicants, and agents; and
1612 matters relating to depopulation.

1613 5. Must provide a procedure for determining the eligibility
1614 of a risk for coverage, as follows:

1615 a. Subject to s. 627.3517, with respect to personal lines
1616 residential risks that are primary residences, if the risk is
1617 offered coverage from an authorized insurer at the insurer's
1618 approved rate under a standard policy including wind coverage
1619 or, if consistent with the insurer's underwriting rules as filed
1620 with the office, a basic policy including wind coverage, for a
1621 new application to the corporation for coverage, the risk is not
1622 eligible for any policy issued by the corporation unless the
1623 premium for coverage from the authorized insurer is more than 20
1624 percent greater than the premium for comparable coverage from

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1625 the corporation. Whenever an offer of coverage for a personal
1626 lines residential risk that is a primary residence is received
1627 for a policyholder of the corporation at renewal from an
1628 authorized insurer, if the offer is equal to or less than the
1629 corporation's renewal premium for comparable coverage, the risk
1630 is not eligible for coverage with the corporation for policies
1631 that renew before April 1, 2023; for policies that renew on or
1632 after that date, the risk is not eligible for coverage with the
1633 corporation unless the premium for coverage from the authorized
1634 insurer is more than 20 percent greater than the corporation's
1635 renewal premium for comparable coverage. If the risk is not able
1636 to obtain such offer, the risk is eligible for a standard policy
1637 including wind coverage or a basic policy including wind
1638 coverage issued by the corporation; however, if the risk could
1639 not be insured under a standard policy including wind coverage
1640 regardless of market conditions, the risk is eligible for a
1641 basic policy including wind coverage unless rejected under
1642 subparagraph 8. The corporation shall determine the type of
1643 policy to be provided on the basis of objective standards
1644 specified in the underwriting manual and based on generally
1645 accepted underwriting practices. A policyholder removed from the
1646 corporation through an assumption agreement does not remain
1647 eligible for coverage from the corporation after the end of the
1648 policy term. However, any policy removed from the corporation
1649 through an assumption agreement remains on the corporation's
1650 policy forms through the end of the policy term. This sub-
1651 subparagraph applies only to risks that are primary residences.

1652 (I) If the risk accepts an offer of coverage through the
1653 market assistance plan or through a mechanism established by the

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1654 corporation other than a plan established by s. 627.3518, before
1655 a policy is issued to the risk by the corporation or during the
1656 first 30 days of coverage by the corporation, and the producing
1657 agent who submitted the application to the plan or to the
1658 corporation is not currently appointed by the insurer, the
1659 insurer shall:

1660 (A) Pay to the producing agent of record of the policy for
1661 the first year, an amount that is the greater of the insurer's
1662 usual and customary commission for the type of policy written or
1663 a fee equal to the usual and customary commission of the
1664 corporation; or

1665 (B) Offer to allow the producing agent of record of the
1666 policy to continue servicing the policy for at least 1 year and
1667 offer to pay the agent the greater of the insurer's or the
1668 corporation's usual and customary commission for the type of
1669 policy written.

1670

1671 If the producing agent is unwilling or unable to accept
1672 appointment, the new insurer shall pay the agent in accordance
1673 with sub-sub-sub-subparagraph (A).

1674 (II) If the corporation enters into a contractual agreement
1675 for a take-out plan, the producing agent of record of the
1676 corporation policy is entitled to retain any unearned commission
1677 on the policy, and the insurer shall:

1678 (A) Pay to the producing agent of record, for the first
1679 year, an amount that is the greater of the insurer's usual and
1680 customary commission for the type of policy written or a fee
1681 equal to the usual and customary commission of the corporation;
1682 or

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1683 (B) Offer to allow the producing agent of record to
1684 continue servicing the policy for at least 1 year and offer to
1685 pay the agent the greater of the insurer's or the corporation's
1686 usual and customary commission for the type of policy written.

1687
1688 If the producing agent is unwilling or unable to accept
1689 appointment, the new insurer shall pay the agent in accordance
1690 with sub-sub-sub-subparagraph (A).

1691 b. Subject to s. 627.3517, with respect to personal lines
1692 residential risks that are not primary residences, if the risk
1693 is offered coverage from an authorized insurer at the insurer's
1694 approved rate or from an approved surplus lines insurer at the
1695 rate approved by the office as part of such surplus lines
1696 insurer's take-out plan for a new application to the corporation
1697 for coverage, the risk is not eligible for any policy issued by
1698 the corporation unless the premium for coverage from the
1699 authorized insurer or approved surplus lines insurer is more
1700 than 20 percent greater than the premium for comparable coverage
1701 from the corporation. Whenever an offer of coverage for a
1702 personal lines residential risk that is not a primary residence
1703 is received for a policyholder of the corporation at renewal
1704 from an authorized insurer at the insurer's approved rate or an
1705 approved surplus lines insurer at the rate approved by the
1706 office as part of such insurer's take-out plan, the risk is not
1707 eligible for coverage with the corporation unless the premium
1708 for coverage from the authorized insurer or approved surplus
1709 lines insurer is more than 20 percent greater than the
1710 corporation's renewal premium for comparable coverage for
1711 policies that renew on or after July 1, 2024. If the risk is not

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1712 able to obtain such offer, the risk is eligible for a standard
1713 policy including wind coverage or a basic policy including wind
1714 coverage issued by the corporation. If the risk could not be
1715 insured under a standard policy including wind coverage
1716 regardless of market conditions, the risk is eligible for a
1717 basic policy including wind coverage unless rejected under
1718 subparagraph 8. The corporation shall determine the type of
1719 policy to be provided on the basis of objective standards
1720 specified in the underwriting manual and based on generally
1721 accepted underwriting practices. A policyholder removed from the
1722 corporation through an assumption agreement does not remain
1723 eligible for coverage from the corporation after the end of the
1724 policy term. However, any policy removed from the corporation
1725 through an assumption agreement remains on the corporation's
1726 policy forms through the end of the policy term.

1727 (I) If the risk accepts an offer of coverage through the
1728 market assistance plan or through a mechanism established by the
1729 corporation other than a plan established by s. 627.3518, before
1730 a policy is issued to the risk by the corporation or during the
1731 first 30 days of coverage by the corporation, and the producing
1732 agent who submitted the application to the plan or to the
1733 corporation is not currently appointed by the insurer, the
1734 insurer must:

1735 (A) Pay to the producing agent of record of the policy, for
1736 the first year, an amount that is the greater of the insurer's
1737 usual and customary commission for the type of policy written or
1738 a fee equal to the usual and customary commission of the
1739 corporation; or

1740 (B) Offer to allow the producing agent of record of the

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1741 policy to continue servicing the policy for at least 1 year and
1742 offer to pay the agent the greater of the insurer's or the
1743 corporation's usual and customary commission for the type of
1744 policy written.

1745

1746 If the producing agent is unwilling or unable to accept
1747 appointment, the new insurer must pay the agent in accordance
1748 with sub-sub-sub-subparagraph (A).

1749 (II) If the corporation enters into a contractual agreement
1750 for a take-out plan, the producing agent of record of the
1751 corporation policy is entitled to retain any unearned commission
1752 on the policy, and the insurer must:

1753 (A) Pay to the producing agent of record, for the first
1754 year, an amount that is the greater of the insurer's usual and
1755 customary commission for the type of policy written or a fee
1756 equal to the usual and customary commission of the corporation;
1757 or

1758 (B) Offer to allow the producing agent of record to
1759 continue servicing the policy for at least 1 year and offer to
1760 pay the agent the greater of the insurer's or the corporation's
1761 usual and customary commission for the type of policy written.

1762

1763 If the producing agent is unwilling or unable to accept
1764 appointment, the new insurer shall pay the agent in accordance
1765 with sub-sub-sub-subparagraph (A).

1766 ~~c.b.~~ With respect to commercial lines residential risks,
1767 for a new application to the corporation for coverage, if the
1768 risk is offered coverage under a policy including wind coverage
1769 from an authorized insurer at its approved rate, the risk is not

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1770 eligible for a policy issued by the corporation unless the
1771 premium for coverage from the authorized insurer is more than 20
1772 percent greater than the premium for comparable coverage from
1773 the corporation. Whenever an offer of coverage for a commercial
1774 lines residential risk is received for a policyholder of the
1775 corporation at renewal from an authorized insurer, the risk is
1776 not eligible for coverage with the corporation unless the
1777 premium for coverage from the authorized insurer is more than 20
1778 percent greater than the corporation's renewal premium for
1779 comparable coverage. If the risk is not able to obtain any such
1780 offer, the risk is eligible for a policy including wind coverage
1781 issued by the corporation. A policyholder removed from the
1782 corporation through an assumption agreement remains eligible for
1783 coverage from the corporation until the end of the policy term.
1784 However, any policy removed from the corporation through an
1785 assumption agreement remains on the corporation's policy forms
1786 through the end of the policy term.

1787 (I) If the risk accepts an offer of coverage through the
1788 market assistance plan or through a mechanism established by the
1789 corporation other than a plan established by s. 627.3518, before
1790 a policy is issued to the risk by the corporation or during the
1791 first 30 days of coverage by the corporation, and the producing
1792 agent who submitted the application to the plan or the
1793 corporation is not currently appointed by the insurer, the
1794 insurer shall:

1795 (A) Pay to the producing agent of record of the policy, for
1796 the first year, an amount that is the greater of the insurer's
1797 usual and customary commission for the type of policy written or
1798 a fee equal to the usual and customary commission of the

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1799 corporation; or

1800 (B) Offer to allow the producing agent of record of the
1801 policy to continue servicing the policy for at least 1 year and
1802 offer to pay the agent the greater of the insurer's or the
1803 corporation's usual and customary commission for the type of
1804 policy written.

1805

1806 If the producing agent is unwilling or unable to accept
1807 appointment, the new insurer shall pay the agent in accordance
1808 with sub-sub-sub-subparagraph (A).

1809 (II) If the corporation enters into a contractual agreement
1810 for a take-out plan, the producing agent of record of the
1811 corporation policy is entitled to retain any unearned commission
1812 on the policy, and the insurer shall:

1813 (A) Pay to the producing agent of record, for the first
1814 year, an amount that is the greater of the insurer's usual and
1815 customary commission for the type of policy written or a fee
1816 equal to the usual and customary commission of the corporation;
1817 or

1818 (B) Offer to allow the producing agent of record to
1819 continue servicing the policy for at least 1 year and offer to
1820 pay the agent the greater of the insurer's or the corporation's
1821 usual and customary commission for the type of policy written.

1822

1823 If the producing agent is unwilling or unable to accept
1824 appointment, the new insurer shall pay the agent in accordance
1825 with sub-sub-sub-subparagraph (A).

1826 ~~d.e.~~ For purposes of determining comparable coverage under
1827 sub-subparagraphs a., ~~and~~ b., and c., the comparison must be

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1828 based on those forms and coverages that are reasonably
1829 comparable. The corporation may rely on a determination of
1830 comparable coverage and premium made by the producing agent who
1831 submits the application to the corporation, made in the agent's
1832 capacity as the corporation's agent. For purposes of comparing
1833 the premium for comparable coverage under sub-subparagraphs a.,
1834 ~~and b.,~~ and c. premium includes any surcharge or assessment that
1835 is actually applied to such policy. A comparison may be made
1836 solely of the premium with respect to the main building or
1837 structure only on the following basis: the same Coverage A or
1838 other building limits; the same percentage hurricane deductible
1839 that applies on an annual basis or that applies to each
1840 hurricane for commercial residential property; the same
1841 percentage of ordinance and law coverage, if the same limit is
1842 offered by both the corporation and the authorized insurer or
1843 the approved surplus line insurer; the same mitigation credits,
1844 to the extent the same types of credits are offered both by the
1845 corporation and the authorized insurer or the approved surplus
1846 lines insurer; the same method for loss payment, such as
1847 replacement cost or actual cash value, if the same method is
1848 offered both by the corporation and the authorized insurer in
1849 accordance with underwriting rules; and any other form or
1850 coverage that is reasonably comparable as determined by the
1851 board. If an application is submitted to the corporation for
1852 wind-only coverage on a risk that is located in an area eligible
1853 for coverage by the Florida Windstorm Underwriting Association,
1854 as that area was defined on January 1, 2002, the premium for the
1855 corporation's wind-only policy plus the premium for the ex-wind
1856 policy that is offered by an authorized insurer to the applicant

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1857 must be compared to the premium for multiperil coverage offered
1858 by an authorized insurer, subject to the standards for
1859 comparison specified in this subparagraph. If the corporation or
1860 the applicant requests from the authorized insurer or the
1861 approved surplus lines insurer a breakdown of the premium of the
1862 offer by types of coverage so that a comparison may be made by
1863 the corporation or its agent and the authorized insurer or the
1864 approved surplus lines insurer refuses or is unable to provide
1865 such information, the corporation may treat the offer as not
1866 being an offer of coverage from an authorized insurer at the
1867 insurer's approved rate.

1868 6. Must include rules for classifications of risks and
1869 rates.

1870 7. Must provide that if premium and investment income~~+~~
1871 ~~a.~~ for the Citizens ~~an~~ account, which are attributable to a
1872 particular calendar year, are in excess of projected losses and
1873 expenses for the Citizens account attributable to that year,
1874 such excess shall be held in surplus in the Citizens account.
1875 Such surplus must be available to defray deficits in the
1876 Citizens ~~that~~ account as to future years and used for that
1877 purpose before assessing assessable insurers and assessable
1878 insureds as to any calendar year; ~~or~~

1879 ~~b. For the Citizens account, if established by the~~
1880 ~~corporation, which are attributable to a particular calendar~~
1881 ~~year are in excess of projected losses and expenses for the~~
1882 ~~Citizens account attributable to that year, such excess shall be~~
1883 ~~held in surplus in the Citizens account. Such surplus must be~~
1884 ~~available to defray deficits in the Citizens account as to~~
1885 ~~future years and used for that purpose before assessing~~

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1886 ~~assessable insurers and assessable insureds as to any calendar~~
1887 ~~year.~~

1888 8. Must provide objective criteria and procedures to be
1889 uniformly applied to all applicants in determining whether an
1890 individual risk is so hazardous as to be uninsurable. In making
1891 this determination and in establishing the criteria and
1892 procedures, the following must be considered:

1893 a. Whether the likelihood of a loss for the individual risk
1894 is substantially higher than for other risks of the same class;
1895 and

1896 b. Whether the uncertainty associated with the individual
1897 risk is such that an appropriate premium cannot be determined.

1898
1899 The acceptance or rejection of a risk by the corporation shall
1900 be construed as the private placement of insurance, and the
1901 provisions of chapter 120 do not apply.

1902 9. Must provide that the corporation make its best efforts
1903 to procure catastrophe reinsurance at reasonable rates, to cover
1904 its projected 100-year probable maximum loss as determined by
1905 the board of governors. If catastrophe reinsurance is not
1906 available at reasonable rates, the corporation need not purchase
1907 it, but the corporation shall include the costs of reinsurance
1908 to cover its projected 100-year probable maximum loss in its
1909 rate calculations even if it does not purchase catastrophe
1910 reinsurance.

1911 10. The policies issued by the corporation must provide
1912 that if the corporation or the market assistance plan obtains an
1913 offer from an authorized insurer to cover the risk at its
1914 approved rates, the risk is no longer eligible for renewal

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1915 through the corporation, except as otherwise provided in this
1916 subsection.

1917 11. Corporation policies and applications must include a
1918 notice that the corporation policy could, under this section, be
1919 replaced with a policy issued by an authorized insurer which
1920 does not provide coverage identical to the coverage provided by
1921 the corporation. The notice must also specify that acceptance of
1922 corporation coverage creates a conclusive presumption that the
1923 applicant or policyholder is aware of this potential.

1924 12. May establish, subject to approval by the office,
1925 different eligibility requirements and operational procedures
1926 for any line or type of coverage for any specified county or
1927 area if the board determines that such changes are justified due
1928 to the voluntary market being sufficiently stable and
1929 competitive in such area or for such line or type of coverage
1930 and that consumers who, in good faith, are unable to obtain
1931 insurance through the voluntary market through ordinary methods
1932 continue to have access to coverage from the corporation. If
1933 coverage is sought in connection with a real property transfer,
1934 the requirements and procedures may not provide an effective
1935 date of coverage later than the date of the closing of the
1936 transfer as established by the transferor, the transferee, and,
1937 if applicable, the lender.

1938 13. ~~Must provide that:~~

1939 ~~a. With respect to the coastal account, any assessable~~
1940 ~~insurer with a surplus as to policyholders of \$25 million or~~
1941 ~~less writing 25 percent or more of its total countrywide~~
1942 ~~property insurance premiums in this state may petition the~~
1943 ~~office, within the first 90 days of each calendar year, to~~

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1944 ~~qualify as a limited apportionment company. A regular assessment~~
1945 ~~levied by the corporation on a limited apportionment company for~~
1946 ~~a deficit incurred by the corporation for the coastal account~~
1947 ~~may be paid to the corporation on a monthly basis as the~~
1948 ~~assessments are collected by the limited apportionment company~~
1949 ~~from its insureds, but a limited apportionment company must~~
1950 ~~begin collecting the regular assessments not later than 90 days~~
1951 ~~after the regular assessments are levied by the corporation, and~~
1952 ~~the regular assessments must be paid in full within 15 months~~
1953 ~~after being levied by the corporation. A limited apportionment~~
1954 ~~company shall collect from its policyholders any emergency~~
1955 ~~assessment imposed under sub-subparagraph (b)3.e. The plan must~~
1956 ~~provide that, if the office determines that any regular~~
1957 ~~assessment will result in an impairment of the surplus of a~~
1958 ~~limited apportionment company, the office may direct that all or~~
1959 ~~part of such assessment be deferred as provided in subparagraph~~
1960 ~~(g)4. However, an emergency assessment to be collected from~~
1961 ~~policyholders under sub-subparagraph (b)3.e. may not be limited~~
1962 ~~or deferred; or~~

1963 ~~b. With respect to the Citizens account, if established by~~
1964 ~~the corporation pursuant to sub-subparagraph (b)2.b., any~~
1965 ~~assessable insurer with a surplus as to policyholders of \$25~~
1966 ~~million or less and writing 25 percent or more of its total~~
1967 ~~countrywide property insurance premiums in this state may~~
1968 ~~petition the office, within the first 90 days of each calendar~~
1969 ~~year, to qualify as a limited apportionment company. A limited~~
1970 ~~apportionment company shall collect from its policyholders any~~
1971 ~~emergency assessment imposed under sub-subparagraph (b)5.c. An~~
1972 ~~emergency assessment to be collected from policyholders under~~

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1973 ~~sub-subparagraph (b)5.c. may not be limited or deferred.~~

1974 ~~14.~~ Must provide that the corporation appoint as its
1975 licensed agents only those agents who throughout such
1976 appointments also hold an appointment as defined in s. 626.015
1977 by at least three insurers ~~an insurer~~ who are ~~is~~ authorized to
1978 write and are ~~is~~ actually writing or renewing personal lines
1979 residential property coverage, commercial residential property
1980 coverage, or commercial nonresidential property coverage within
1981 the state.

1982 ~~14.15.~~ Must provide a premium payment plan option to its
1983 policyholders which, at a minimum, allows for quarterly and
1984 semiannual payment of premiums. A monthly payment plan may, but
1985 is not required to, be offered.

1986 ~~15.16.~~ Must limit coverage on mobile homes or manufactured
1987 homes built before 1994 to actual cash value of the dwelling
1988 rather than replacement costs of the dwelling.

1989 ~~16.17.~~ Must provide coverage for manufactured or mobile
1990 home dwellings. Such coverage must also include the following
1991 attached structures:

1992 a. Screened enclosures that are aluminum framed or screened
1993 enclosures that are not covered by the same or substantially the
1994 same materials as those of the primary dwelling;

1995 b. Carports that are aluminum or carports that are not
1996 covered by the same or substantially the same materials as those
1997 of the primary dwelling; and

1998 c. Patios that have a roof covering that is constructed of
1999 materials that are not the same or substantially the same
2000 materials as those of the primary dwelling.

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2002 The corporation shall make available a policy for mobile homes
 2003 or manufactured homes for a minimum insured value of at least
 2004 \$3,000.

2005 ~~17.18.~~ May provide such limits of coverage as the board
 2006 determines, consistent with the requirements of this subsection.

2007 ~~18.19.~~ May require commercial property to meet specified
 2008 hurricane mitigation construction features as a condition of
 2009 eligibility for coverage.

2010 ~~19.20.~~ Must provide that new or renewal policies issued by
 2011 the corporation on or after January 1, 2012, which cover
 2012 sinkhole loss do not include coverage for any loss to
 2013 appurtenant structures, driveways, sidewalks, decks, or patios
 2014 that are directly or indirectly caused by sinkhole activity. The
 2015 corporation shall exclude such coverage using a notice of
 2016 coverage change, which may be included with the policy renewal,
 2017 and not by issuance of a notice of nonrenewal of the excluded
 2018 coverage upon renewal of the current policy.

2019 ~~20.a.21.a. As of January 1, 2012, unless the Citizens~~
 2020 ~~account has been established pursuant to sub-subparagraph~~
 2021 ~~(b)2.b.,~~ Must require that the agent obtain from an applicant
 2022 for coverage from the corporation an acknowledgment signed by
 2023 the applicant, which includes, at a minimum, the following
 2024 statement:

2025
 2026 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE
 2027 AND ASSESSMENT LIABILITY:
 2028

2029 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
 2030 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A

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2031 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
 2032 MY POLICY COULD BE SUBJECT TO SURCHARGES AND ASSESSMENTS, WHICH
 2033 WILL BE DUE AND PAYABLE UPON RENEWAL, CANCELLATION, OR
 2034 TERMINATION OF THE POLICY, AND THAT THE SURCHARGES AND
 2035 ASSESSMENTS COULD BE AS HIGH AS 25 ~~45~~ PERCENT OF MY PREMIUM, OR
 2036 A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA LEGISLATURE.

2037 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER
 2038 SURCHARGE, WHICH COULD BE AS HIGH AS 15 ~~45~~ PERCENT OF MY
 2039 PREMIUM, BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND
 2040 THAT TO BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY
 2041 TO OBTAIN PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR
 2042 RENEWING COVERAGE WITH CITIZENS. I UNDERSTAND THAT PRIVATE
 2043 MARKET INSURANCE RATES ARE REGULATED AND APPROVED BY THE STATE.

2044 3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
 2045 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
 2046 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
 2047 FLORIDA LEGISLATURE.

2048 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
 2049 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
 2050 STATE OF FLORIDA.

2051
 2052 ~~b. The corporation must require, if it has established the~~
 2053 ~~Citizens account pursuant to sub-subparagraph (b)2.b., that the~~
 2054 ~~agent obtain from an applicant for coverage from the corporation~~
 2055 ~~the following acknowledgment signed by the applicant, which~~
 2056 ~~includes, at a minimum, the following statement:~~

2057
 2058 ~~ACKNOWLEDGMENT OF POTENTIAL SURCHARGE~~
 2059 ~~AND ASSESSMENT LIABILITY:~~

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2060

2061 ~~1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE~~
2062 ~~CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A~~
2063 ~~DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,~~
2064 ~~MY POLICY COULD BE SUBJECT TO SURCHARGES AND ASSESSMENTS, WHICH~~
2065 ~~WILL BE DUE AND PAYABLE UPON RENEWAL, CANCELLATION, OR~~
2066 ~~TERMINATION OF THE POLICY, AND THAT THE SURCHARGES AND~~
2067 ~~ASSESSMENTS COULD BE AS HIGH AS 25 PERCENT OF MY PREMIUM, OR A~~
2068 ~~DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA LEGISLATURE.~~

2069 ~~2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER~~
2070 ~~SURCHARGE, WHICH COULD BE AS HIGH AS 15 PERCENT OF MY PREMIUM,~~
2071 ~~BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO~~
2072 ~~BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN~~
2073 ~~PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE~~
2074 ~~WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES~~
2075 ~~ARE REGULATED AND APPROVED BY THE STATE.~~

2076 ~~3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY~~
2077 ~~ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER~~
2078 ~~INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE~~
2079 ~~FLORIDA LEGISLATURE.~~

2080 ~~4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE~~
2081 ~~CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE~~
2082 ~~STATE OF FLORIDA.~~

2083

2084 ~~b.e.~~ The corporation shall maintain, in electronic format
2085 or otherwise, a copy of the applicant's signed acknowledgment
2086 and provide a copy of the statement to the policyholder as part
2087 of the first renewal after the effective date of sub-
2088 subparagraph a. ~~or sub-subparagraph b., as applicable.~~

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2089 ~~c.d.~~ The signed acknowledgment form creates a conclusive
2090 presumption that the policyholder understood and accepted his or
2091 her potential surcharge and assessment liability as a
2092 policyholder of the corporation.

2093 (e) The corporation is subject to s. 287.057 for the
2094 purchase of commodities and contractual services except as
2095 otherwise provided in this paragraph. Services provided by
2096 tradepersons or technical experts to assist a licensed adjuster
2097 in the evaluation of individual claims are not subject to the
2098 procurement requirements of this section. Additionally, the
2099 procurement of financial services providers and underwriters
2100 must be made pursuant to s. 627.3513. Contracts for goods or
2101 services valued at or more than \$100,000 are subject to approval
2102 by the board.

2103 1. The corporation is an agency for purposes of s. 287.057,
2104 except that, for purposes of s. 287.057(24), the corporation is
2105 an eligible user.

2106 a. The authority of the Department of Management Services
2107 and the Chief Financial Officer under s. 287.057 extends to the
2108 corporation as if the corporation were an agency.

2109 b. The executive director of the corporation is the agency
2110 head under s. 287.057, ~~except for resolution of bid protests for~~
2111 ~~which the board would serve as the agency head.~~ The executive
2112 director of the corporation may assign or appoint a designee to
2113 act on his or her behalf.

2114 2. The corporation must provide notice of a decision or
2115 intended decision concerning a solicitation, contract award, or
2116 exceptional purchase by electronic posting. Such notice must
2117 contain the following statement: "Failure to file a protest

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2118 within the time prescribed in this section constitutes a waiver
2119 of proceedings.”

2120 a. A person adversely affected by the corporation’s
2121 decision or intended decision to award a contract pursuant to s.
2122 287.057(1) or (3)(c) who elects to challenge the decision must
2123 file a written notice of protest with the executive director of
2124 the corporation within 72 hours after the corporation posts a
2125 notice of its decision or intended decision. For a protest of
2126 the terms, conditions, and specifications contained in a
2127 solicitation, including provisions governing the methods for
2128 ranking bids, proposals, replies, awarding contracts, reserving
2129 rights of further negotiation, or modifying or amending any
2130 contract, the notice of protest must be filed in writing within
2131 72 hours after posting the solicitation. Saturdays, Sundays, and
2132 state holidays are excluded in the computation of the 72-hour
2133 time period.

2134 b. A formal written protest must be filed within 10 days
2135 after the date the notice of protest is filed. The formal
2136 written protest must state with particularity the facts and law
2137 upon which the protest is based. Upon receipt of a formal
2138 written protest that has been timely filed, the corporation must
2139 stop the solicitation or contract award process until the
2140 subject of the protest is resolved by final board action unless
2141 the executive director sets forth in writing particular facts
2142 and circumstances that require the continuance of the
2143 solicitation or contract award process without delay in order to
2144 avoid an immediate and serious danger to the public health,
2145 safety, or welfare.

2146 (I) The corporation must provide an opportunity to resolve

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2147 the protest by mutual agreement between the parties within 7
2148 business days after receipt of the formal written protest.

2149 (II) If the subject of a protest is not resolved by mutual
2150 agreement within 7 business days, the corporation's board must
2151 transmit the protest to the Division of Administrative Hearings
2152 and contract with the division to conduct a hearing to determine
2153 the merits of the protest and to issue a recommended order. The
2154 contract must provide for the corporation to reimburse the
2155 division for any costs incurred by the division for court
2156 reporters, transcript preparation, travel, facility rental, and
2157 other customary hearing costs in the manner set forth in s.
2158 120.65(9). The division has jurisdiction to determine the facts
2159 and law concerning the protest and to issue a recommended order.
2160 The division's rules and procedures apply to these proceedings~~;~~
2161 ~~the division's applicable bond requirements do not apply.~~ The
2162 protest must be heard by the division at a publicly noticed
2163 meeting in accordance with procedures established by the
2164 division.

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

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2176 must conduct a de novo proceeding to determine whether the
2177 corporation's proposed action is contrary to the corporation's
2178 governing statutes, the corporation's rules or policies, or the
2179 solicitation specifications. The standard of proof for the
2180 proceeding is whether the corporation's action was clearly
2181 erroneous, contrary to competition, arbitrary, or capricious. In
2182 any bid-protest proceeding contesting an intended corporation
2183 action to reject all bids, proposals, or replies, the standard
2184 of review by the board is whether the corporation's intended
2185 action is illegal, arbitrary, dishonest, or fraudulent.

2186 d. Failure to file a notice of protest or failure to file a
2187 formal written protest constitutes a waiver of proceedings.

2188 3. The ~~board, acting as~~ agency head or his or her designee,
2189 shall consider the recommended order of an administrative law
2190 judge ~~in a public meeting~~ and take final action on the protest.
2191 Any further legal remedy lies with the First District Court of
2192 Appeal.

2193 (n)1. Rates for coverage provided by the corporation must
2194 be actuarially sound pursuant to s. 627.062 and not competitive
2195 with approved rates charged in the admitted voluntary market so
2196 that the corporation functions as a residual market mechanism to
2197 provide insurance only when insurance cannot be procured in the
2198 voluntary market, except as otherwise provided in this
2199 paragraph. The office shall provide the corporation such
2200 information as would be necessary to determine whether rates are
2201 competitive.

2202

2203 The corporation shall file its recommended rates with the office
2204 at least annually. The corporation shall provide any additional

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2205 information regarding the rates which the office requires. The
2206 office shall consider the recommendations of the board and issue
2207 a final order establishing the rates for the corporation within
2208 45 days after the recommended rates are filed. The corporation
2209 may not pursue an administrative challenge or judicial review of
2210 the final order of the office.

2211 2. In addition to the rates otherwise determined pursuant
2212 to this paragraph, the corporation shall impose and collect an
2213 amount equal to the premium tax provided in s. 624.509 to
2214 augment the financial resources of the corporation.

2215 3. After the public hurricane loss-projection model under
2216 s. 627.06281 has been found to be accurate and reliable by the
2217 Florida Commission on Hurricane Loss Projection Methodology, the
2218 model shall be considered when establishing the windstorm
2219 portion of the corporation's rates. The corporation may use the
2220 public model results in combination with the results of private
2221 models to calculate rates for the windstorm portion of the
2222 corporation's rates. This subparagraph does not require or allow
2223 the corporation to adopt rates lower than the rates otherwise
2224 required or allowed by this paragraph.

2225 4. The corporation must make a recommended actuarially
2226 sound rate filing for each personal and commercial line of
2227 business it writes.

2228 5. Notwithstanding the board's recommended rates and the
2229 office's final order regarding the corporation's filed rates
2230 under subparagraph 1., the corporation shall annually implement
2231 a rate increase which, except for sinkhole coverage, does not
2232 exceed the following for any single policy issued by the
2233 corporation, excluding coverage changes and surcharges:

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- 2234 a. ~~Twelve percent for 2023.~~
- 2235 ~~b.~~ Thirteen percent for 2024.
- 2236 ~~b.e.~~ Fourteen percent for 2025.
- 2237 ~~c.d.~~ Fifteen percent for 2026 and all subsequent years.
- 2238 6. The corporation may also implement an increase to
- 2239 reflect the effect on the corporation of the cash buildup factor
- 2240 pursuant to s. 215.555(5) (b).
- 2241 7. The corporation's implementation of rates as prescribed
- 2242 in subparagraphs 5. and 8. shall cease for any line of business
- 2243 written by the corporation upon the corporation's implementation
- 2244 of actuarially sound rates. Thereafter, the corporation shall
- 2245 annually make a recommended actuarially sound rate filing that
- 2246 is not competitive with approved rates in the admitted voluntary
- 2247 market for each commercial and personal line of business the
- 2248 corporation writes.
- 2249 8. The following new or renewal personal lines policies
- 2250 written on or after November 1, 2023, are not subject to the
- 2251 rate increase limitations in subparagraph 5., but may not be
- 2252 charged more than 50 percent above, and may not be charged ~~nor~~
- 2253 less than, the prior year's established rate for the
- 2254 corporation:
- 2255 a. Policies that do not cover a primary residence;
- 2256 b. New policies under which the coverage for the insured
- 2257 risk, before the date of application with the corporation, was
- 2258 last provided by an insurer determined by the office to be
- 2259 unsound or an insurer placed in receivership under chapter 631;
- 2260 c. Policies made eligible for coverage from the corporation
- 2261 pursuant to sub-subparagraph (a)3.c.; or
- 2262 ~~d.e.~~ Subsequent renewals of those policies, including the

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2263 new policies in sub-subparagraph b., under which the coverage
2264 for the insured risk, before the date of application with the
2265 corporation, was last provided by an insurer determined by the
2266 office to be unsound or an insurer placed in receivership under
2267 chapter 631.

2268 9. As used in this paragraph, the term "primary residence"
2269 means the dwelling that is the policyholder's primary home or is
2270 a rental property that is the primary home of the tenant, and
2271 which the policyholder or tenant occupies for more than 9 months
2272 of each year.

2273 (o) If coverage in ~~an account, or~~ the Citizens account ~~if~~
2274 ~~established by the corporation,~~ is deactivated pursuant to
2275 paragraph (p), coverage through the corporation shall be
2276 reactivated by order of the office only under one of the
2277 following circumstances:

2278 1. If the market assistance plan receives a minimum of 100
2279 applications for coverage within a 3-month period, or 200
2280 applications for coverage within a 1-year period or less for
2281 residential coverage, unless the market assistance plan provides
2282 a quotation from authorized ~~admitted~~ carriers at their approved
2283 ~~filed~~ rates for at least 90 percent of such applicants. Any
2284 market assistance plan application that is rejected because an
2285 individual risk is so hazardous as to be uninsurable using the
2286 criteria specified in subparagraph (c)8. may ~~shall~~ not be
2287 included in the minimum percentage calculation provided herein.
2288 In the event that there is a legal or administrative challenge
2289 to a determination by the office that the conditions of this
2290 subparagraph have been met for eligibility for coverage in the
2291 corporation, any eligible risk may obtain coverage during the

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2292 pendency of such challenge.

2293 2. In response to a state of emergency declared by the
2294 Governor under s. 252.36, the office may activate coverage by
2295 order for the period of the emergency upon a finding by the
2296 office that the emergency significantly affects the availability
2297 of residential property insurance.

2298 (p)1. The corporation shall file with the office quarterly
2299 statements of financial condition, an annual statement of
2300 financial condition, and audited financial statements in the
2301 manner prescribed by law. In addition, the corporation shall
2302 report to the office monthly on the types, premium, exposure,
2303 and distribution by county of its policies in force, and shall
2304 submit other reports as the office requires to carry out its
2305 oversight of the corporation.

2306 2. The activities of the corporation shall be reviewed at
2307 least annually by the office to determine whether coverage shall
2308 be deactivated in ~~an account, or in~~ the Citizens account ~~if~~
2309 ~~established by the corporation,~~ on the basis that the conditions
2310 giving rise to its activation no longer exist.

2311 (q)1. The corporation shall certify to the office its needs
2312 for annual assessments as to a particular calendar year, and for
2313 any interim assessments that it deems to be necessary to sustain
2314 operations as to a particular year pending the receipt of annual
2315 assessments. Upon verification, the office shall approve such
2316 certification, and the corporation shall levy such annual or
2317 interim assessments. Such assessments shall be prorated, if
2318 authority to levy exists, as provided in paragraph (b). The
2319 corporation shall take all reasonable and prudent steps
2320 necessary to collect the amount of assessments due from each

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2321 assessable insurer, including, if prudent, filing suit to
2322 collect the assessments, and the office may provide such
2323 assistance to the corporation it deems appropriate. If the
2324 corporation is unable to collect an assessment from any
2325 assessable insurer, the uncollected assessments shall be levied
2326 as an additional assessment against the assessable insurers and
2327 any assessable insurer required to pay an additional assessment
2328 as a result of such failure to pay shall have a cause of action
2329 against such nonpaying assessable insurer. Assessments shall be
2330 included as an appropriate factor in the making of rates. The
2331 failure of a surplus lines agent to collect and remit any
2332 regular or emergency assessment levied by the corporation is
2333 considered to be a violation of s. 626.936 and subjects the
2334 surplus lines agent to the penalties provided in that section.

2335 2. The governing body of any unit of local government, any
2336 residents of which are insured by the corporation, may issue
2337 bonds as defined in s. 125.013 or s. 166.101 from time to time
2338 to fund an assistance program, in conjunction with the
2339 corporation, for the purpose of defraying deficits of the
2340 corporation. In order to avoid needless and indiscriminate
2341 proliferation, duplication, and fragmentation of such assistance
2342 programs, any unit of local government, any residents of which
2343 are insured by the corporation, may provide for the payment of
2344 losses, regardless of whether or not the losses occurred within
2345 or outside of the territorial jurisdiction of the local
2346 government. Revenue bonds under this subparagraph may not be
2347 issued until validated pursuant to chapter 75, unless a state of
2348 emergency is declared by executive order or proclamation of the
2349 Governor pursuant to s. 252.36 making such findings as are

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2350 necessary to determine that it is in the best interests of, and
2351 necessary for, the protection of the public health, safety, and
2352 general welfare of residents of this state and declaring it an
2353 essential public purpose to permit certain municipalities or
2354 counties to issue such bonds as will permit relief to claimants
2355 and policyholders of the corporation. Any such unit of local
2356 government may enter into such contracts with the corporation
2357 and with any other entity created pursuant to this subsection as
2358 are necessary to carry out this paragraph. Any bonds issued
2359 under this subparagraph shall be payable from and secured by
2360 moneys received by the corporation from emergency assessments
2361 under sub-subparagraph (b)3.c. ~~(b)3.e.~~, and assigned and pledged
2362 to or on behalf of the unit of local government for the benefit
2363 of the holders of such bonds. The funds, credit, property, and
2364 taxing power of the state or of the unit of local government may
2365 ~~shall~~ not be pledged for the payment of such bonds.

2366 3.a. The corporation shall adopt one or more programs
2367 subject to approval by the office for the reduction of both new
2368 and renewal writings in the corporation. Beginning January 1,
2369 2008, any program the corporation adopts for the payment of
2370 bonuses to an insurer for each risk the insurer removes from the
2371 corporation shall comply with s. 627.3511(2) and may not exceed
2372 the amount referenced in s. 627.3511(2) for each risk removed.
2373 The corporation may consider any prudent and not unfairly
2374 discriminatory approach to reducing corporation writings, and
2375 may adopt a credit against assessment liability or other
2376 liability that provides an incentive for insurers to take risks
2377 out of the corporation and to keep risks out of the corporation
2378 by maintaining or increasing voluntary writings in counties or

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2379 areas in which corporation risks are highly concentrated and a
2380 program to provide a formula under which an insurer voluntarily
2381 taking risks out of the corporation by maintaining or increasing
2382 voluntary writings will be relieved wholly or partially from
2383 assessments ~~under sub-subparagraph (b) 3.a.~~ However, any "take-
2384 out bonus" or payment to an insurer must be conditioned on the
2385 property being insured for at least 5 years by the insurer,
2386 unless canceled or nonrenewed by the policyholder. If the policy
2387 is canceled or nonrenewed by the policyholder before the end of
2388 the 5-year period, the amount of the take-out bonus must be
2389 prorated for the time period the policy was insured. When the
2390 corporation enters into a contractual agreement for a take-out
2391 plan, the producing agent of record of the corporation policy is
2392 entitled to retain any unearned commission on such policy, and
2393 the insurer shall either:

2394 (I) Pay to the producing agent of record of the policy, for
2395 the first year, an amount which is the greater of the insurer's
2396 usual and customary commission for the type of policy written or
2397 a policy fee equal to the usual and customary commission of the
2398 corporation; or

2399 (II) Offer to allow the producing agent of record of the
2400 policy to continue servicing the policy for a period of not less
2401 than 1 year and offer to pay the agent the insurer's usual and
2402 customary commission for the type of policy written. If the
2403 producing agent is unwilling or unable to accept appointment by
2404 the new insurer, the new insurer shall pay the agent in
2405 accordance with sub-sub-subparagraph (I).

2406 b. Any credit or exemption from regular assessments adopted
2407 under this subparagraph shall last no longer than the 3 years

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2408 following the cancellation or expiration of the policy by the
2409 corporation. With the approval of the office, the board may
2410 extend such credits for an additional year if the insurer
2411 guarantees an additional year of renewability for all policies
2412 removed from the corporation, or for 2 additional years if the
2413 insurer guarantees 2 additional years of renewability for all
2414 policies so removed.

2415 c. There shall be no credit, limitation, exemption, or
2416 deferment from emergency assessments to be collected from
2417 policyholders pursuant to sub-subparagraph (b)3.c. ~~sub-~~
2418 ~~subparagraph (b)3.e. or sub-subparagraph (b)5.e.~~

2419 4. ~~The plan shall provide for the deferment, in whole or in~~
2420 ~~part, of the assessment of an assessable insurer, other than an~~
2421 ~~emergency assessment collected from policyholders pursuant to~~
2422 ~~sub-subparagraph (b)3.e. or sub-subparagraph (b)5.e., if the~~
2423 ~~office finds that payment of the assessment would endanger or~~
2424 ~~impair the solvency of the insurer. In the event an assessment~~
2425 ~~against an assessable insurer is deferred in whole or in part,~~
2426 ~~the amount by which such assessment is deferred may be assessed~~
2427 ~~against the other assessable insurers in a manner consistent~~
2428 ~~with the basis for assessments set forth in paragraph (b).~~

2429 ~~5.~~ Effective July 1, 2007, in order to evaluate the costs
2430 and benefits of approved take-out plans, if the corporation pays
2431 a bonus or other payment to an insurer for an approved take-out
2432 plan, it shall maintain a record of the address or such other
2433 identifying information on the property or risk removed in order
2434 to track if and when the property or risk is later insured by
2435 the corporation.

2436 5.6. Any policy taken out, assumed, or removed from the

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2437 corporation is, as of the effective date of the take-out,
2438 assumption, or removal, direct insurance issued by the insurer
2439 and not by the corporation, even if the corporation continues to
2440 service the policies. This subparagraph applies to policies of
2441 the corporation and not policies taken out, assumed, or removed
2442 from any other entity.

2443 ~~6.7.~~ For a policy taken out, assumed, or removed from the
2444 corporation, the insurer may, for a period of no more than 3
2445 years, continue to use any of the corporation's policy forms or
2446 endorsements that apply to the policy taken out, removed, or
2447 assumed without obtaining approval from the office for use of
2448 such policy form or endorsement.

2449 (v)1. Effective July 1, 2002, policies of the Residential
2450 Property and Casualty Joint Underwriting Association become
2451 policies of the corporation. All obligations, rights, assets and
2452 liabilities of the association, including bonds, note and debt
2453 obligations, and the financing documents pertaining to them
2454 become those of the corporation as of July 1, 2002. The
2455 corporation is not required to issue endorsements or
2456 certificates of assumption to insureds during the remaining term
2457 of in-force transferred policies.

2458 2. Effective July 1, 2002, policies of the Florida
2459 Windstorm Underwriting Association are transferred to the
2460 corporation and become policies of the corporation. All
2461 obligations, rights, assets, and liabilities of the association,
2462 including bonds, note and debt obligations, and the financing
2463 documents pertaining to them are transferred to and assumed by
2464 the corporation on July 1, 2002. The corporation is not required
2465 to issue endorsements or certificates of assumption to insureds

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2466 during the remaining term of in-force transferred policies.

2467 3. The Florida Windstorm Underwriting Association and the
2468 Residential Property and Casualty Joint Underwriting Association
2469 shall take all actions necessary to further evidence the
2470 transfers and provide the documents and instruments of further
2471 assurance as may reasonably be requested by the corporation for
2472 that purpose. The corporation shall execute assumptions and
2473 instruments as the trustees or other parties to the financing
2474 documents of the Florida Windstorm Underwriting Association or
2475 the Residential Property and Casualty Joint Underwriting
2476 Association may reasonably request to further evidence the
2477 transfers and assumptions, which transfers and assumptions,
2478 however, are effective on the date provided under this paragraph
2479 whether or not, and regardless of the date on which, the
2480 assumptions or instruments are executed by the corporation.
2481 ~~Subject to the relevant financing documents pertaining to their~~
2482 ~~outstanding bonds, notes, indebtedness, or other financing~~
2483 ~~obligations, the moneys, investments, receivables, choses in~~
2484 ~~action, and other intangibles of the Florida Windstorm~~
2485 ~~Underwriting Association shall be credited to the coastal~~
2486 ~~account of the corporation, and those of the personal lines~~
2487 ~~residential coverage account and the commercial lines~~
2488 ~~residential coverage account of the Residential Property and~~
2489 ~~Casualty Joint Underwriting Association shall be credited to the~~
2490 ~~personal lines account and the commercial lines account,~~
2491 ~~respectively, of the corporation.~~

2492 4. Effective July 1, 2002, a new applicant for property
2493 insurance coverage who would otherwise have been eligible for
2494 coverage in the Florida Windstorm Underwriting Association is

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2495 eligible for coverage from the corporation as provided in this
2496 subsection.

2497 5. The transfer of all policies, obligations, rights,
2498 assets, and liabilities from the Florida Windstorm Underwriting
2499 Association to the corporation and the renaming of the
2500 Residential Property and Casualty Joint Underwriting Association
2501 as the corporation does not affect the coverage with respect to
2502 covered policies as defined in s. 215.555(2)(c) provided to
2503 these entities by the Florida Hurricane Catastrophe Fund. ~~The~~
2504 ~~coverage provided by the fund to the Florida Windstorm~~
2505 ~~Underwriting Association based on its exposures as of June 30,~~
2506 ~~2002, and each June 30 thereafter, unless the corporation has~~
2507 ~~established the Citizens account, shall be redesignated as~~
2508 ~~coverage for the coastal account of the corporation.~~
2509 ~~Notwithstanding any other provision of law, the coverage~~
2510 ~~provided by the fund to the Residential Property and Casualty~~
2511 ~~Joint Underwriting Association based on its exposures as of June~~
2512 ~~30, 2002, and each June 30 thereafter, unless the corporation~~
2513 ~~has established the Citizens account, shall be transferred to~~
2514 ~~the personal lines account and the commercial lines account of~~
2515 ~~the corporation. Notwithstanding any other provision of law, the~~
2516 ~~coastal account, unless the corporation has established the~~
2517 ~~Citizens account, shall be treated, for all Florida Hurricane~~
2518 ~~Catastrophe Fund purposes, as if it were a separate~~
2519 ~~participating insurer with its own exposures, reimbursement~~
2520 ~~premium, and loss reimbursement. Likewise, the personal lines~~
2521 ~~and commercial lines accounts, unless the corporation has~~
2522 ~~established the Citizens account, shall be viewed together, for~~
2523 ~~all fund purposes, as if the two accounts were one and represent~~

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2524 ~~a single, separate participating insurer with its own exposures,~~
2525 ~~reimbursement premium, and loss reimbursement.~~ The coverage
2526 provided by the fund to the corporation shall constitute and
2527 operate as a full transfer of coverage from the Florida
2528 Windstorm Underwriting Association and Residential Property and
2529 Casualty Joint Underwriting Association to the corporation.

2530 (w) Notwithstanding any other provision of law:

2531 1. The pledge or sale of, the lien upon, and the security
2532 interest in any rights, revenues, or other assets of the
2533 corporation created or purported to be created pursuant to any
2534 financing documents to secure any bonds or other indebtedness of
2535 the corporation shall be and remain valid and enforceable,
2536 notwithstanding the commencement of and during the continuation
2537 of, and after, any rehabilitation, insolvency, liquidation,
2538 bankruptcy, receivership, conservatorship, reorganization, or
2539 similar proceeding against the corporation under the laws of
2540 this state.

2541 2. The proceeding does not relieve the corporation of its
2542 obligation, or otherwise affect its ability to perform its
2543 obligation, to continue to collect, or levy and collect,
2544 assessments, policyholder surcharges or other surcharges ~~under~~
2545 ~~sub-subparagraph (b) 3. j.~~, or any other rights, revenues, or
2546 other assets of the corporation pledged pursuant to any
2547 financing documents.

2548 3. Each such pledge or sale of, lien upon, and security
2549 interest in, including the priority of such pledge, lien, or
2550 security interest, any such assessments, policyholder surcharges
2551 or other surcharges, or other rights, revenues, or other assets
2552 which are collected, or levied and collected, after the

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2553 commencement of and during the pendency of, or after, any such
2554 proceeding shall continue unaffected by such proceeding. As used
2555 in this subsection, the term "financing documents" means any
2556 agreement or agreements, instrument or instruments, or other
2557 document or documents now existing or hereafter created
2558 evidencing any bonds or other indebtedness of the corporation or
2559 pursuant to which any such bonds or other indebtedness has been
2560 or may be issued and pursuant to which any rights, revenues, or
2561 other assets of the corporation are pledged or sold to secure
2562 the repayment of such bonds or indebtedness, together with the
2563 payment of interest on such bonds or such indebtedness, or the
2564 payment of any other obligation or financial product, as defined
2565 in the plan of operation of the corporation related to such
2566 bonds or indebtedness.

2567 4. Any such pledge or sale of assessments, revenues,
2568 contract rights, or other rights or assets of the corporation
2569 shall constitute a lien and security interest, or sale, as the
2570 case may be, that is immediately effective and attaches to such
2571 assessments, revenues, or contract rights or other rights or
2572 assets, whether or not imposed or collected at the time the
2573 pledge or sale is made. Any such pledge or sale is effective,
2574 valid, binding, and enforceable against the corporation or other
2575 entity making such pledge or sale, and valid and binding against
2576 and superior to any competing claims or obligations owed to any
2577 other person or entity, including policyholders in this state,
2578 asserting rights in any such assessments, revenues, or contract
2579 rights or other rights or assets to the extent set forth in and
2580 in accordance with the terms of the pledge or sale contained in
2581 the applicable financing documents, whether or not any such

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2582 person or entity has notice of such pledge or sale and without
2583 the need for any physical delivery, recordation, filing, or
2584 other action.

2585 5. As long as the corporation has any bonds outstanding,
2586 the corporation may not file a voluntary petition under chapter
2587 9 of the federal Bankruptcy Code or such corresponding chapter
2588 or sections as may be in effect, from time to time, and a public
2589 officer or any organization, entity, or other person may not
2590 authorize the corporation to be or become a debtor under chapter
2591 9 of the federal Bankruptcy Code or such corresponding chapter
2592 or sections as may be in effect, from time to time, during any
2593 such period.

2594 6. If ordered by a court of competent jurisdiction, the
2595 corporation may assume policies or otherwise provide coverage
2596 for policyholders of an insurer placed in liquidation under
2597 chapter 631, under such forms, rates, terms, and conditions as
2598 the corporation deems appropriate, subject to approval by the
2599 office.

2600 (x)1. The following records of the corporation are
2601 confidential and exempt from the provisions of s. 119.07(1) and
2602 s. 24(a), Art. I of the State Constitution:

2603 a. Underwriting files, except that a policyholder or an
2604 applicant shall have access to his or her own underwriting
2605 files. Confidential and exempt underwriting file records may
2606 also be released to other governmental agencies upon written
2607 request and demonstration of need; such records held by the
2608 receiving agency remain confidential and exempt as provided
2609 herein.

2610 b. Claims files, until termination of all litigation and

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2611 settlement of all claims arising out of the same incident,
2612 although portions of the claims files may remain exempt, as
2613 otherwise provided by law. Confidential and exempt claims file
2614 records may be released to other governmental agencies upon
2615 written request and demonstration of need; such records held by
2616 the receiving agency remain confidential and exempt as provided
2617 herein.

2618 c. Records obtained or generated by an internal auditor
2619 pursuant to a routine audit, until the audit is completed, or if
2620 the audit is conducted as part of an investigation, until the
2621 investigation is closed or ceases to be active. An investigation
2622 is considered "active" while the investigation is being
2623 conducted with a reasonable, good faith belief that it could
2624 lead to the filing of administrative, civil, or criminal
2625 proceedings.

2626 d. Matters reasonably encompassed in privileged attorney-
2627 client communications.

2628 e. Proprietary information licensed to the corporation
2629 under contract and the contract provides for the confidentiality
2630 of such proprietary information.

2631 f. All information relating to the medical condition or
2632 medical status of a corporation employee which is not relevant
2633 to the employee's capacity to perform his or her duties, except
2634 as otherwise provided in this paragraph. Information that is
2635 exempt shall include, but is not limited to, information
2636 relating to workers' compensation, insurance benefits, and
2637 retirement or disability benefits.

2638 g. Upon an employee's entrance into the employee assistance
2639 program, a program to assist any employee who has a behavioral

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2640 or medical disorder, substance abuse problem, or emotional
2641 difficulty that affects the employee's job performance, all
2642 records relative to that participation shall be confidential and
2643 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I
2644 of the State Constitution, except as otherwise provided in s.
2645 112.0455(11).

2646 h. Information relating to negotiations for financing,
2647 reinsurance, depopulation, or contractual services, until the
2648 conclusion of the negotiations.

2649 i. Minutes of closed meetings regarding underwriting files,
2650 and minutes of closed meetings regarding an open claims file
2651 until termination of all litigation and settlement of all claims
2652 with regard to that claim, except that information otherwise
2653 confidential or exempt by law shall be redacted.

2654 2. If an authorized insurer is considering underwriting a
2655 risk insured by the corporation, relevant underwriting files and
2656 confidential claims files may be released to the insurer
2657 provided the insurer agrees in writing, notarized and under
2658 oath, to maintain the confidentiality of such files. If a file
2659 is transferred to an insurer, that file is no longer a public
2660 record because it is not held by an agency subject to the
2661 provisions of the public records law. Underwriting files and
2662 confidential claims files may also be released to staff and the
2663 board of governors of the market assistance plan established
2664 pursuant to s. 627.3515, who must retain the confidentiality of
2665 such files, except such files may be released to authorized
2666 insurers that are considering assuming the risks to which the
2667 files apply, provided the insurer agrees in writing, notarized
2668 and under oath, to maintain the confidentiality of such files.

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2669 Finally, the corporation or the board or staff of the market
2670 assistance plan may make the following information obtained from
2671 underwriting files and confidential claims files available to an
2672 entity that has obtained a permit to become an authorized
2673 insurer, a reinsurer that may provide reinsurance under s.
2674 624.610, a licensed reinsurance broker, a licensed rating
2675 organization, a modeling company, a licensed surplus lines
2676 agent, or a licensed general lines insurance agent: name,
2677 address, and telephone number of the residential property owner
2678 or insured; location of the risk; rating information; loss
2679 history; and policy type. The receiving person must retain the
2680 confidentiality of the information received and may use the
2681 information only for the purposes of developing a take-out plan
2682 or a rating plan to be submitted to the office for approval or
2683 otherwise analyzing the underwriting of a risk or risks insured
2684 by the corporation on behalf of the private insurance market. A
2685 licensed surplus lines agent or licensed general lines insurance
2686 agent may not use such information for the direct solicitation
2687 of policyholders.

2688 3. A policyholder who has filed suit against the
2689 corporation has the right to discover the contents of his or her
2690 own claims file to the same extent that discovery of such
2691 contents would be available from a private insurer in litigation
2692 as provided by the Florida Rules of Civil Procedure, the Florida
2693 Evidence Code, and other applicable law. Pursuant to subpoena, a
2694 third party has the right to discover the contents of an
2695 insured's or applicant's underwriting or claims file to the same
2696 extent that discovery of such contents would be available from a
2697 private insurer by subpoena as provided by the Florida Rules of

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2698 Civil Procedure, the Florida Evidence Code, and other applicable
2699 law, and subject to any confidentiality protections requested by
2700 the corporation and agreed to by the seeking party or ordered by
2701 the court. The corporation may release confidential underwriting
2702 and claims file contents and information as it deems necessary
2703 and appropriate to underwrite or service insurance policies and
2704 claims, subject to any confidentiality protections deemed
2705 necessary and appropriate by the corporation.

2706 4. Portions of meetings of the corporation are exempt from
2707 the provisions of s. 286.011 and s. 24(b), Art. I of the State
2708 Constitution wherein confidential underwriting files or
2709 confidential open claims files are discussed. All portions of
2710 corporation meetings which are closed to the public shall be
2711 recorded by a court reporter. The court reporter shall record
2712 the times of commencement and termination of the meeting, all
2713 discussion and proceedings, the names of all persons present at
2714 any time, and the names of all persons speaking. No portion of
2715 any closed meeting shall be off the record. Subject to the
2716 provisions hereof and s. 119.07(1)(d)-(f), the court reporter's
2717 notes of any closed meeting shall be retained by the corporation
2718 for a minimum of 5 years. A copy of the transcript, less any
2719 exempt matters, of any closed meeting wherein claims are
2720 discussed shall become public as to individual claims after
2721 settlement of the claim.

2722 (z) In enacting the provisions of this section, the
2723 Legislature recognizes that both the Florida Windstorm
2724 Underwriting Association and the Residential Property and
2725 Casualty Joint Underwriting Association have entered into
2726 financing arrangements that obligate each entity to service its

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2727 debts and maintain the capacity to repay funds secured under
2728 these financing arrangements. It is the intent of the
2729 Legislature that nothing in this section be construed to
2730 compromise, diminish, or interfere with the rights of creditors
2731 under such financing arrangements. It is further the intent of
2732 the Legislature to preserve the obligations of the Florida
2733 Windstorm Underwriting Association and Residential Property and
2734 Casualty Joint Underwriting Association with regard to
2735 outstanding financing arrangements, with such obligations
2736 passing entirely and unchanged to the corporation and,
2737 specifically, to the Citizens ~~applicable~~ account ~~of the~~
2738 ~~corporation~~. So long as any bonds, notes, indebtedness, or other
2739 financing obligations of the Florida Windstorm Underwriting
2740 Association or the Residential Property and Casualty Joint
2741 Underwriting Association are outstanding, under the terms of the
2742 financing documents pertaining to them, the governing board of
2743 the corporation shall have and shall exercise the authority to
2744 levy, charge, collect, and receive all premiums, assessments,
2745 surcharges, charges, revenues, and receipts that the
2746 associations had authority to levy, charge, collect, or receive
2747 under the provisions of subsection (2) and this subsection,
2748 respectively, as they existed on January 1, 2002, to provide
2749 moneys, without exercise of the authority provided by this
2750 subsection, in at least the amounts, and by the times, as would
2751 be provided under those former provisions of subsection (2) or
2752 this subsection, respectively, so that the value, amount, and
2753 collectability of any assets, revenues, or revenue source
2754 pledged or committed to, or any lien thereon securing such
2755 outstanding bonds, notes, indebtedness, or other financing

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2756 obligations will not be diminished, impaired, or adversely
2757 affected by the amendments made by this act and to permit
2758 compliance with all provisions of financing documents pertaining
2759 to such bonds, notes, indebtedness, or other financing
2760 obligations, or the security or credit enhancement for them, and
2761 any reference in this subsection to bonds, notes, indebtedness,
2762 financing obligations, or similar obligations, of the
2763 corporation shall include like instruments or contracts of the
2764 Florida Windstorm Underwriting Association and the Residential
2765 Property and Casualty Joint Underwriting Association to the
2766 extent not inconsistent with the provisions of the financing
2767 documents pertaining to them.

2768 (ii) The corporation shall revise the programs adopted
2769 pursuant to sub-subparagraph (q)3.a. for personal lines
2770 residential policies to maximize policyholder options and
2771 encourage increased participation by insurers and agents. After
2772 January 1, 2017, a policy may not be taken out of the
2773 corporation unless the provisions of this paragraph are met.

2774 1. The corporation must publish a periodic schedule of
2775 cycles during which an insurer may identify, and notify the
2776 corporation of, policies that the insurer is requesting to take
2777 out. A request must include a description of the coverage
2778 offered and an estimated premium and must be submitted to the
2779 corporation in a form and manner prescribed by the corporation.

2780 2. The corporation must maintain and make available to the
2781 agent of record a consolidated list of all insurers requesting
2782 to take out a policy. The list must include a description of the
2783 coverage offered and the estimated premium for each take-out
2784 request.

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2785 3. If a policyholder receives a take-out offer from an
2786 authorized insurer, the risk is no longer eligible for coverage
2787 with the corporation unless the premium for coverage from the
2788 authorized insurer is more than 20 percent greater than the
2789 renewal premium for comparable coverage from the corporation
2790 pursuant to sub-subparagraph (c)5.d. ~~(e)5.e.~~ This subparagraph
2791 applies to take-out offers that are part of an application to
2792 participate in depopulation submitted to the office on or after
2793 January 1, 2023. This subparagraph only applies to a policy that
2794 covers a primary residence.

2795 4. The corporation must provide written notice to the
2796 policyholder and the agent of record regarding all insurers
2797 requesting to take out the policy. The notice must be in a
2798 format prescribed by the corporation and include, for each take-
2799 out offer:

- 2800 a. The amount of the estimated premium;
2801 b. A description of the coverage; and
2802 c. A comparison of the estimated premium and coverage
2803 offered by the insurer to the estimated premium and coverage
2804 provided by the corporation.

2805 (nn) The corporation may share its claims data with the
2806 National Insurance Crime Bureau, provided that the National
2807 Insurance Crime Bureau agrees to maintain the confidentiality of
2808 such documents as otherwise provided for in paragraph (x).

2809 (7) TRADEMARKS, COPYRIGHTS, OR PATENTS.—Notwithstanding any
2810 other law, the corporation is authorized, in its own name, to:

2811 (a) Perform all things necessary to secure letters of
2812 patent, copyrights, or trademarks on any work products and
2813 enforce its rights therein.

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2814 (b) License, lease, assign, or otherwise give written
 2815 consent to any person, firm, or corporation for the manufacture
 2816 or use thereof, on a royalty basis or for such other
 2817 consideration as the corporation deems proper.

2818 (c) Take any action necessary, including legal action, to
 2819 protect trademarks, copyrights, or patents against improper or
 2820 unlawful use or infringement.

2821 (d) Enforce the collection of any sums due the corporation
 2822 for the manufacture or use thereof by any other party.

2823 (e) Sell any of its trademarks, copyrights, or patents and
 2824 execute all instruments necessary to consummate any such sale.

2825 (f) Do all other acts necessary and proper for the
 2826 execution of powers and duties herein conferred upon the
 2827 corporation in order to administer this subsection.

2828 Section 3. Paragraphs (a), (b), and (c) of subsection (3)
 2829 and paragraphs (d), (e), and (f) of subsection (6) of section
 2830 627.3511, Florida Statutes, are amended to read:

2831 627.3511 Depopulation of Citizens Property Insurance
 2832 Corporation.—

2833 (3) EXEMPTION FROM DEFICIT ASSESSMENTS.—

2834 (a) The calculation of an insurer's ~~assessment~~ liability
 2835 ~~under s. 627.351(6)(b)3.a.~~ shall, for an insurer that in any
 2836 calendar year removes 50,000 or more risks from the Citizens
 2837 Property Insurance Corporation, either by issuance of a policy
 2838 upon expiration or cancellation of the corporation policy or by
 2839 assumption of the corporation's obligations with respect to in-
 2840 force policies, exclude such removed policies for the succeeding
 2841 3 years, as follows:

2842 1. In the first year following removal of the risks, the

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2843 risks are excluded from the calculation to the extent of 100
2844 percent.

2845 2. In the second year following removal of the risks, the
2846 risks are excluded from the calculation to the extent of 75
2847 percent.

2848 3. In the third year following removal of the risks, the
2849 risks are excluded from the calculation to the extent of 50
2850 percent.

2851

2852 If the removal of risks is accomplished through assumption of
2853 obligations with respect to in-force policies, the corporation
2854 shall pay to the assuming insurer all unearned premium with
2855 respect to such policies less any policy acquisition costs
2856 agreed to by the corporation and assuming insurer. The term
2857 "policy acquisition costs" is defined as costs of issuance of
2858 the policy by the corporation which includes agent commissions,
2859 servicing company fees, and premium tax. This paragraph does not
2860 apply to an insurer that, at any time within 5 years before
2861 removing the risks, had a market share in excess of 0.1 percent
2862 of the statewide aggregate gross direct written premium for any
2863 line of property insurance, or to an affiliate of such an
2864 insurer. This paragraph does not apply unless either at least 40
2865 percent of the risks removed from the corporation are located in
2866 Miami-Dade, Broward, and Palm Beach Counties, or at least 30
2867 percent of the risks removed from the corporation are located in
2868 such counties and an additional 50 percent of the risks removed
2869 from the corporation are located in other coastal counties.

2870 (b) An insurer that first wrote personal lines residential
2871 property coverage in this state on or after July 1, 1994, is

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2872 exempt from liability ~~regular deficit assessments imposed~~
2873 ~~pursuant to s. 627.351(6)(b)3.a.~~, but not emergency assessments
2874 collected from policyholders pursuant to s. 627.351(6)(b)3.c. ~~s.~~
2875 ~~627.351(6)(b)3.e.~~, of the Citizens Property Insurance
2876 Corporation until the earlier of the following:

2877 1. The end of the calendar year in which it first wrote 0.5
2878 percent or more of the statewide aggregate direct written
2879 premium for any line of residential property coverage; or

2880 2. December 31, 1997, or December 31 of the third year in
2881 which it wrote such coverage in this state, whichever is later.

2882 (c) Other than an insurer that is exempt under paragraph
2883 (b), an insurer that in any calendar year increases its total
2884 structure exposure subject to wind coverage by 25 percent or
2885 more over its exposure for the preceding calendar year is, with
2886 respect to that year, exempt from liability ~~deficit assessments~~
2887 ~~imposed pursuant to s. 627.351(6)(b)3.a.~~, but not from emergency
2888 assessments collected from policyholders pursuant to s.
2889 627.351(6)(b)3.c. ~~s. 627.351(6)(b)3.e.~~, of the Citizens Property
2890 Insurance Corporation attributable to such increase in exposure.

2891 (6) COMMERCIAL RESIDENTIAL TAKE-OUT PLANS.—

2892 (d) The calculation of an insurer's ~~regular assessment~~
2893 ~~liability under s. 627.351(6)(b)3.a.~~, but not emergency
2894 assessments collected from policyholders pursuant to s.
2895 627.351(6)(b)3.c. ~~s. 627.351(6)(b)3.e.~~, shall, with respect to
2896 commercial residential policies removed from the corporation
2897 under an approved take-out plan, exclude such removed policies
2898 for the succeeding 3 years, as follows:

2899 1. In the first year following removal of the policies, the
2900 policies are excluded from the calculation to the extent of 100

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2901 percent.

2902 2. In the second year following removal of the policies,
2903 the policies are excluded from the calculation to the extent of
2904 75 percent.

2905 3. In the third year following removal of the policies, the
2906 policies are excluded from the calculation to the extent of 50
2907 percent.

2908 (e) An insurer that first wrote commercial residential
2909 property coverage in this state on or after June 1, 1996, is
2910 exempt from liability ~~regular assessments under s.~~
2911 ~~627.351(6)(b)3.a.~~, but not from emergency assessments collected
2912 from policyholders pursuant to s. 627.351(6)(b)3.c. ~~s.~~
2913 ~~627.351(6)(b)3.e.~~, with respect to commercial residential
2914 policies until the earlier of:

2915 1. The end of the calendar year in which such insurer first
2916 wrote 0.5 percent or more of the statewide aggregate direct
2917 written premium for commercial residential property coverage; or

2918 2. December 31 of the third year in which such insurer
2919 wrote commercial residential property coverage in this state.

2920 (f) An insurer that is not otherwise exempt from liability
2921 ~~regular assessments under s. 627.351(6)(b)3.a.~~ with respect to
2922 commercial residential policies is, for any calendar year in
2923 which such insurer increased its total commercial residential
2924 hurricane exposure by 25 percent or more over its exposure for
2925 the preceding calendar year, exempt from liability ~~regular~~
2926 ~~assessments under s. 627.351(6)(b)3.a.~~, but not emergency
2927 assessments collected from policyholders pursuant to s.
2928 627.351(6)(b)3.c. ~~s. 627.351(6)(b)3.e.~~, attributable to such
2929 increased exposure.

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2930 Section 4. Subsections (5), (6), and (7) of section
2931 627.3518, Florida Statutes, are amended to read:
2932 627.3518 Citizens Property Insurance Corporation
2933 policyholder eligibility clearinghouse program.—The purpose of
2934 this section is to provide a framework for the corporation to
2935 implement a clearinghouse program by January 1, 2014.

2936 (5) Notwithstanding s. 627.3517, any applicant for new
2937 coverage from the corporation is not eligible for coverage from
2938 the corporation if provided an offer of coverage from an
2939 authorized insurer through the program at a premium that is at
2940 or below the eligibility threshold for applicants for new
2941 coverage of a primary residence established in s.
2942 627.351(6)(c)5.a., or for applicants for new coverage of a risk
2943 that is not a primary residence established in s.
2944 627.351(6)(c)5.b. Whenever an offer of coverage for a personal
2945 lines risk is received for a policyholder of the corporation at
2946 renewal from an authorized insurer through the program which is
2947 at or below the eligibility threshold for primary residences of
2948 policyholders of the corporation established in s.
2949 627.351(6)(c)5.a., or the eligibility threshold for risks that
2950 are not primary residences of policyholders of the corporation
2951 established in s. 627.351(6)(c)5.b., the risk is not eligible
2952 for coverage with the corporation. In the event an offer of
2953 coverage for a new applicant is received from an authorized
2954 insurer through the program, and the premium offered exceeds the
2955 eligibility threshold for applicants for new coverage of a
2956 primary residence established in s. 627.351(6)(c)5.a., or the
2957 eligibility threshold for applicants for new coverage on a risk
2958 that is not a primary residence established in s.

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2959 627.351(6)(c)5.b., the applicant or insured may elect to accept
2960 such coverage, or may elect to accept or continue coverage with
2961 the corporation. In the event an offer of coverage for a
2962 personal lines risk is received from an authorized insurer at
2963 renewal through the program, and the premium offered exceeds the
2964 eligibility threshold for primary residences of policyholders of
2965 the corporation established in s. 627.351(6)(c)5.a., or exceeds
2966 the eligibility threshold for risks that are not primary
2967 residences of policyholders of the corporation established in s.
2968 627.351(6)(c)5.b., the insured may elect to accept such
2969 coverage, or may elect to accept or continue coverage with the
2970 corporation. Section 627.351(6)(c)5.a.(I) and b.(I) does not
2971 apply to an offer of coverage from an authorized insurer
2972 obtained through the program. As used in this subsection, the
2973 term "primary residence" has the same meaning as in s.
2974 627.351(6)(c)2.a.

2975 (6) Independent insurance agents submitting new
2976 applications for coverage or that are the agent of record on a
2977 renewal policy submitted to the program:

2978 (a) Are granted and must maintain ownership and the
2979 exclusive use of expirations, records, or other written or
2980 electronic information directly related to such applications or
2981 renewals written through the corporation or through an insurer
2982 participating in the program, notwithstanding s.
2983 627.351(6)(c)5.a.(I)(B) and (II)(B) or s.
2984 627.351(6)(c)5.b.(I)(B) and (II)(B). Such ownership is granted
2985 for as long as the insured remains with the agency or until sold
2986 or surrendered in writing by the agent. Contracts with the
2987 corporation or required by the corporation must not amend,

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2988 modify, interfere with, or limit such rights of ownership. Such
2989 expirations, records, or other written or electronic information
2990 may be used to review an application, issue a policy, or for any
2991 other purpose necessary for placing such business through the
2992 program.

2993 (b) May not be required to be appointed by any insurer
2994 participating in the program for policies written solely through
2995 the program, notwithstanding the provisions of s. 626.112.

2996 (c) May accept an appointment from any insurer
2997 participating in the program.

2998 (d) May enter into either a standard or limited agency
2999 agreement with the insurer, at the insurer's option.

3000
3001 Applicants ineligible for coverage in accordance with subsection
3002 (5) remain ineligible if their independent agent is unwilling or
3003 unable to enter into a standard or limited agency agreement with
3004 an insurer participating in the program.

3005 (7) Exclusive agents submitting new applications for
3006 coverage or that are the agent of record on a renewal policy
3007 submitted to the program:

3008 (a) Must maintain ownership and the exclusive use of
3009 expirations, records, or other written or electronic information
3010 directly related to such applications or renewals written
3011 through the corporation or through an insurer participating in
3012 the program, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and
3013 (II)(B) or s. 627.351(6)(c)5.b.(I)(B) and (II)(B). Contracts
3014 with the corporation or required by the corporation must not
3015 amend, modify, interfere with, or limit such rights of
3016 ownership. Such expirations, records, or other written or

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3017 electronic information may be used to review an application,
3018 issue a policy, or for any other purpose necessary for placing
3019 such business through the program.

3020 (b) May not be required to be appointed by any insurer
3021 participating in the program for policies written solely through
3022 the program, notwithstanding the provisions of s. 626.112.

3023 (c) Must only facilitate the placement of an offer of
3024 coverage from an insurer whose limited servicing agreement is
3025 approved by that exclusive agent's exclusive insurer.

3026 (d) May enter into a limited servicing agreement with the
3027 insurer making an offer of coverage, and only after the
3028 exclusive agent's insurer has approved the limited servicing
3029 agreement terms. The exclusive agent's insurer must approve a
3030 limited service agreement for the program for any insurer for
3031 which it has approved a service agreement for other purposes.

3032
3033 Applicants ineligible for coverage in accordance with subsection
3034 (5) remain ineligible if their exclusive agent is unwilling or
3035 unable to enter into a standard or limited agency agreement with
3036 an insurer making an offer of coverage to that applicant.

3037 Section 5. Except as otherwise expressly provided in this
3038 act and except for this section, which shall take effect upon
3039 becoming a law, this act shall take effect July 1, 2024.