

1 A bill to be entitled
2 An act relating to Citizens Property Insurance
3 Corporation; amending s. 627.351, F.S.; revising
4 legislative intent; providing that certain residential
5 structures are not eligible for coverage by the
6 corporation after a certain date; specifying the
7 percentage amount of emergency assessments; revising
8 provisions relating to policyholder surcharges;
9 prohibiting the corporation from levying certain
10 assessments with respect to a year's deficit until the
11 corporation has first levied a specified surcharge;
12 deleting obsolete provisions relating to the corporation's
13 plan of operation; requiring the corporation to commission
14 a consultant to prepare a report on outsourcing various
15 functions and to submit such report to the Financial
16 Services Commission by a certain date; revising provisions
17 relating to wind coverage; requiring the policyholders to
18 sign a statement acknowledging that they may be assessed
19 surcharges to cover corporate deficits; providing for
20 termination of an agent for violation of provisions
21 relating to unlawful rebates; providing that policies do
22 not include coverage for screen enclosures and limiting
23 coverage for damage from sinkholes after a certain date;
24 requiring members of the board of governors to abstain
25 from voting on issues on which they have a personal
26 interest; requiring such members to disclose the nature of
27 their interest as a public record; providing that the
28 corporation operates as a residual market mechanism;

29 | revising provisions relating to corporation rates;
 30 | clarifying that the corporation is immune from certain
 31 | liabilities; deleting a requirement for an annual report
 32 | to the Legislature on losses attributable to wind-only
 33 | coverages; requiring owners of properties in Special Flood
 34 | Hazard Areas to maintain a separate flood insurance policy
 35 | after a certain date; providing exceptions; deleting a
 36 | provision relating to a pilot program for optional
 37 | sinkhole coverage; amending s. 627.712, F.S.; conforming
 38 | cross-references; providing an effective date.

39 |

40 | Be It Enacted by the Legislature of the State of Florida:

41 |

42 | Section 1. Paragraphs (a), (b), (c), (d), (n), (o), (s),
 43 | (w), (y), (aa), and (ee) of subsection (6) of section 627.351,
 44 | Florida Statutes, are amended to read:

45 | 627.351 Insurance risk apportionment plans.—

46 | (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

47 | (a)~~1.~~ ~~It is~~ The public purpose of this subsection is to
 48 | ensure that there is the existence of an orderly market for
 49 | property insurance for residents ~~Floridians~~ and ~~Florida~~
 50 | businesses of this state.

51 | 1. The Legislature finds that actual and threatened
 52 | catastrophic losses to property from hurricanes in this state
 53 | have caused insurers to be unwilling or unable to provide
 54 | property insurance coverage to the extent sought and needed. The
 55 | Legislature declares that it is in the public interest and
 56 | serves a public purpose that property in this state be

57 adequately insured in order to facilitate the remediation,
 58 reconstruction, and replacement of damaged or destroyed
 59 property. Such efforts are necessary in order to avoid or reduce
 60 negative effects to the public health, safety, and welfare; the
 61 economy of the state; and the revenues of state and local
 62 governments. It is necessary, therefore, to provide property
 63 insurance to applicants who are entitled to procure insurance
 64 through the voluntary market but who, in good faith, are unable
 65 to do so. The Legislature finds that private insurers are
 66 unwilling or unable to provide affordable property insurance
 67 coverage in this state to the extent sought and needed. The
 68 absence of affordable property insurance threatens the public
 69 health, safety, and welfare and likewise threatens the economic
 70 health of the state. The state therefore has a compelling public
 71 interest and a public purpose to assist in assuring that
 72 property in the state is insured and that it is insured at
 73 affordable rates so as to facilitate the remediation,
 74 reconstruction, and replacement of damaged or destroyed property
 75 in order to reduce or avoid the negative effects otherwise
 76 resulting to the public health, safety, and welfare, to the
 77 economy of the state, and to the revenues of the state and local
 78 governments which are needed to provide for the public welfare.
 79 It is necessary, therefore, to provide affordable property
 80 insurance to applicants who are in good faith entitled to
 81 procure insurance through the voluntary market but are unable to
 82 do so. The Legislature intends, therefore, by this subsection
 83 that affordable property insurance be provided and that it
 84 continue to be provided, as long as necessary, through Citizens

85 Property Insurance Corporation, a government entity that is an
 86 integral part of the state, and that is not a private insurance
 87 company. ~~To that end, Citizens Property Insurance Corporation~~
 88 ~~shall strive to increase the availability of affordable property~~
 89 ~~insurance in this state, while achieving efficiencies and~~
 90 ~~economies, and while providing service to policyholders,~~
 91 ~~applicants, and agents which is no less than the quality~~
 92 ~~generally provided in the voluntary market, for the achievement~~
 93 ~~of the foregoing public purposes. Because it is essential for~~
 94 ~~this government entity to have the maximum financial resources~~
 95 ~~to pay claims following a catastrophic hurricane, it is the~~
 96 ~~intent of the Legislature that Citizens Property Insurance~~
 97 ~~Corporation continue to be an integral part of the state and~~
 98 ~~that the income of the corporation be exempt from federal income~~
 99 ~~taxation and that interest on the debt obligations issued by the~~
 100 ~~corporation be exempt from federal income taxation.~~

101 a. It is also the intent of the Legislature that
 102 policyholders, applicants, and agents of the corporation receive
 103 service and treatment of the highest possible level and never
 104 less than that generally provided in the voluntary market. The
 105 corporation must be held to service standards no less than those
 106 applied to insurers in the voluntary market by the office with
 107 respect to responsiveness, timeliness, customer courtesy, and
 108 overall dealings with policyholders, applicants, or agents of
 109 the corporation. It is also the intent of the Legislature that
 110 the corporation operate efficiently and economically.

111 b. Because it is essential that the corporation have the
 112 maximum financial resources necessary to pay claims following a

113 catastrophic hurricane, the Legislature also intends that the
 114 income of the corporation and interest on the debt obligations
 115 issued by the corporation be exempt from federal income
 116 taxation.

117 2. The Residential Property and Casualty Joint
 118 Underwriting Association originally created by this statute
 119 shall be known, ~~as of July 1, 2002,~~ as the Citizens Property
 120 Insurance Corporation. The corporation shall provide insurance
 121 for residential and commercial property, for applicants who are
 122 ~~in good faith~~ entitled, but, in good faith, are unable, ~~to~~
 123 procure insurance through the voluntary market. The corporation
 124 shall operate pursuant to a plan of operation approved by order
 125 of the Financial Services Commission. The plan is subject to
 126 continuous review by the commission. The commission may, by
 127 order, withdraw approval of all or part of a plan if the
 128 commission determines that conditions have changed since
 129 approval was granted and that the purposes of the plan require
 130 changes in the plan. ~~The corporation shall continue to operate~~
 131 ~~pursuant to the plan of operation approved by the Office of~~
 132 ~~Insurance Regulation until October 1, 2006.~~ For the purposes of
 133 this subsection, residential coverage includes both personal
 134 lines residential coverage, which consists of the type of
 135 coverage provided by homeowner's, mobile home owner's, dwelling,
 136 tenant's, condominium unit owner's, and similar policies; ~~and~~
 137 commercial lines residential coverage, which consists of the
 138 type of coverage provided by condominium association, apartment
 139 building, and similar policies.

140 3. With respect to coverage for personal lines residential

141 structures:

142 a. Effective January 1, 2009, a ~~personal lines residential~~
 143 structure that has a dwelling replacement cost of \$2 million or
 144 more, or a single condominium unit that has a combined dwelling
 145 and contents ~~content~~ replacement cost of \$2 million or more is
 146 not eligible for coverage by the corporation. Such dwellings
 147 insured by the corporation on December 31, 2008, may continue to
 148 be covered by the corporation until the end of the policy term.
 149 However, such dwellings ~~that are insured by the corporation and~~
 150 ~~become ineligible for coverage due to the provisions of this~~
 151 ~~subparagraph~~ may reapply and obtain coverage if the property
 152 owner provides the corporation with a sworn affidavit from one
 153 or more insurance agents, on a form provided by the corporation,
 154 stating that the agents have made their best efforts to obtain
 155 coverage and that the property has been rejected for coverage by
 156 at least one authorized insurer and at least three surplus lines
 157 insurers. If such conditions are met, the dwelling may be
 158 insured by the corporation for up to 3 years, after which time
 159 the dwelling is ineligible for coverage. ~~The office shall~~
 160 ~~approve the method used by the corporation for valuing the~~
 161 ~~dwelling replacement cost for the purposes of this subparagraph.~~
 162 ~~If a policyholder is insured by the corporation prior to being~~
 163 ~~determined to be ineligible pursuant to this subparagraph and~~
 164 ~~such policyholder files a lawsuit challenging the determination,~~
 165 ~~the policyholder may remain insured by the corporation until the~~
 166 ~~conclusion of the litigation.~~

167 b. Effective January 1, 2012, a structure that has a
 168 dwelling replacement cost of \$1 million or more, or a single

169 condominium unit that has a combined dwelling and contents
 170 replacement cost of \$1 million or more, is not eligible for
 171 coverage by the corporation. Such dwellings insured by the
 172 corporation on December 31, 2011, may continue to be covered by
 173 the corporation only until the end of the policy term.

174 c. Effective January 1, 2014, a structure that has a
 175 dwelling replacement cost of \$750,000 or more, or a single
 176 condominium unit that has a combined dwelling and contents
 177 replacement cost of \$750,000 or more, is not eligible for
 178 coverage by the corporation. Such dwellings insured by the
 179 corporation on December 31, 2013, may continue to be covered by
 180 the corporation until the end of the policy term.

181 d. Effective January 1, 2016, a structure that has a
 182 dwelling replacement cost of \$500,000 or more, or a single
 183 condominium unit that has a combined dwelling and contents
 184 replacement cost of \$500,000 or more, is not eligible for
 185 coverage by the corporation. Such dwellings insured by the
 186 corporation on December 31, 2015, may continue to be covered by
 187 the corporation until the end of the policy term.

188 ~~4. It is the intent of the Legislature that policyholders,~~
 189 ~~applicants, and agents of the corporation receive service and~~
 190 ~~treatment of the highest possible level but never less than that~~
 191 ~~generally provided in the voluntary market. It also is intended~~
 192 ~~that the corporation be held to service standards no less than~~
 193 ~~those applied to insurers in the voluntary market by the office~~
 194 ~~with respect to responsiveness, timeliness, customer courtesy,~~
 195 ~~and overall dealings with policyholders, applicants, or agents~~
 196 ~~of the corporation.~~

197 ~~4.5.~~ Effective January 1, 2009, a personal lines
 198 residential structure that is located in the "wind-borne debris
 199 region," as defined in s. 1609.2, International Building Code
 200 (2006), and that has an insured value on the structure of
 201 \$750,000 or more is not eligible for coverage by the corporation
 202 unless the structure has opening protections as required under
 203 the Florida Building Code for a newly constructed residential
 204 structure in that area. A residential structure shall be deemed
 205 to comply with ~~the requirements of~~ this subparagraph if it has
 206 shutters or opening protections on all openings and if such
 207 opening protections complied with the Florida Building Code at
 208 the time they were installed.

209 (b)1. All insurers authorized to write one or more subject
 210 lines of business in this state are subject to assessment by the
 211 corporation and, for the purposes of this subsection, are
 212 referred to collectively as "assessable insurers." Insurers
 213 writing one or more subject lines of business in this state
 214 pursuant to part VIII of chapter 626 are not assessable
 215 insurers, but insureds who procure one or more subject lines of
 216 business in this state pursuant to part VIII of chapter 626 are
 217 subject to assessment by the corporation and are referred to
 218 collectively as "assessable insureds." An ~~authorized~~ insurer's
 219 assessment liability begins ~~shall begin~~ on the first day of the
 220 calendar year following the year in which the insurer was issued
 221 a certificate of authority to transact insurance for subject
 222 lines of business in this state and terminates ~~shall terminate~~ 1
 223 year after the end of the first calendar year during which the
 224 insurer no longer holds a certificate of authority to transact

225 insurance for subject lines of business in this state.

226 2.a. All revenues, assets, liabilities, losses, and
 227 expenses of the corporation shall be divided into three separate
 228 accounts as follows:

229 (I) A personal lines account for personal residential
 230 policies issued by the corporation, or issued by the Residential
 231 Property and Casualty Joint Underwriting Association and renewed
 232 by the corporation, which provides ~~that provide~~ comprehensive,
 233 multiperil coverage on risks that are not located in areas
 234 eligible for coverage by ~~in~~ the Florida Windstorm Underwriting
 235 Association as those areas were defined on January 1, 2002, and
 236 for ~~such~~ policies that do not provide coverage for the peril of
 237 wind on risks that are located in such areas;

238 (II) A commercial lines account for commercial residential
 239 and commercial nonresidential policies issued by the
 240 corporation, or issued by the Residential Property and Casualty
 241 Joint Underwriting Association and renewed by the corporation,
 242 which provides ~~that provide~~ coverage for basic property perils
 243 on risks that are not located in areas eligible for coverage by
 244 ~~in~~ the Florida Windstorm Underwriting Association as those areas
 245 were defined on January 1, 2002, and for ~~such~~ policies that do
 246 not provide coverage for the peril of wind on risks that are
 247 located in such areas; and

248 (III) A high-risk account for personal residential
 249 policies and commercial residential and commercial
 250 nonresidential property policies issued by the corporation, or
 251 transferred to the corporation, which provides ~~that provide~~
 252 coverage for the peril of wind on risks that are located in

253 | areas eligible for coverage by ~~in~~ the Florida Windstorm
 254 | Underwriting Association as those areas were defined on January
 255 | 1, 2002. The corporation may offer policies that provide
 256 | multiperil coverage and the corporation shall continue to offer
 257 | policies that provide coverage only for the peril of wind for
 258 | risks located in areas eligible for coverage in the high-risk
 259 | account. In issuing multiperil coverage, the corporation may use
 260 | its approved policy forms and rates for the personal lines
 261 | account. An applicant or insured who is eligible to purchase a
 262 | multiperil policy from the corporation may purchase a multiperil
 263 | policy from an authorized insurer without prejudice to the
 264 | applicant's or insured's eligibility to prospectively purchase a
 265 | policy that provides coverage only for the peril of wind from
 266 | the corporation. An applicant or insured who is eligible for a
 267 | corporation policy that provides coverage only for the peril of
 268 | wind may elect to purchase or retain such policy and also
 269 | purchase or retain coverage excluding wind from an authorized
 270 | insurer without prejudice to the applicant's or insured's
 271 | eligibility to prospectively purchase a policy that provides
 272 | multiperil coverage from the corporation. ~~It is the goal of the~~
 273 | ~~Legislature that there would be an overall average savings of 10~~
 274 | ~~percent or more for a policyholder who currently has a wind-only~~
 275 | ~~policy with the corporation, and an ex-wind policy with a~~
 276 | ~~voluntary insurer or the corporation, and who then obtains a~~
 277 | ~~multiperil policy from the corporation.~~ It is the intent of the
 278 | Legislature that the offer of multiperil coverage in the high-
 279 | risk account be made and implemented in a manner that does not
 280 | adversely affect the tax-exempt status of the corporation or

281 creditworthiness of or security for currently outstanding
 282 financing obligations or credit facilities of the high-risk
 283 account, the personal lines account, or the commercial lines
 284 account. ~~The high-risk account must also include quota share~~
 285 ~~primary insurance under subparagraph (c)2.~~ The area eligible for
 286 coverage under the high-risk account also includes the area
 287 within Port Canaveral, which is bordered on the south by the
 288 City of Cape Canaveral, bordered on the west by the Banana
 289 River, and bordered on the north by Federal Government property.

290 b. The three separate accounts must be maintained as long
 291 as financing obligations entered into by the Florida Windstorm
 292 Underwriting Association or Residential Property and Casualty
 293 Joint Underwriting Association are outstanding, in accordance
 294 with the terms of the corresponding financing documents. If ~~When~~
 295 the financing obligations are no longer outstanding, ~~in~~
 296 ~~accordance with the terms of the corresponding financing~~
 297 ~~documents,~~ the corporation may use a single account for all
 298 revenues, assets, liabilities, losses, and expenses of the
 299 corporation. Consistent with ~~the requirement of~~ this
 300 subparagraph and prudent investment policies that minimize the
 301 cost of carrying debt, the board shall exercise its best efforts
 302 to retire existing debt or ~~to~~ obtain the approval of necessary
 303 parties to amend the terms of existing debt, so as to structure
 304 the most efficient plan to consolidate the three separate
 305 accounts into a single account.

306 c. Creditors of the Residential Property and Casualty
 307 Joint Underwriting Association and of the accounts specified in
 308 sub-sub-subparagraphs a.(I) and (II) may have a claim against,

309 and recourse to, those ~~the~~ accounts ~~referred to in sub-sub-~~
 310 ~~subparagraphs a.(I) and (II) and shall have~~ no claim against, or
 311 recourse to, the account referred to in sub-sub-subparagraph
 312 a.(III). Creditors of the Florida Windstorm Underwriting
 313 Association ~~shall~~ have a claim against, and recourse to, the
 314 account referred to in sub-sub-subparagraph a.(III) and ~~shall~~
 315 ~~have~~ no claim against, or recourse to, the accounts referred to
 316 in sub-sub-subparagraphs a.(I) and (II).

317 d. Revenues, assets, liabilities, losses, and expenses not
 318 attributable to particular accounts shall be prorated among the
 319 accounts.

320 e. The Legislature finds that the revenues of the
 321 corporation are revenues that are necessary to meet the
 322 requirements set forth in documents authorizing the issuance of
 323 bonds under this subsection.

324 f. No part of the income of the corporation may inure to
 325 the benefit of any private person.

326 3. With respect to a deficit in an account:

327 a. After accounting for the Citizens policyholder
 328 surcharge imposed under sub-subparagraph i., if ~~when~~ the
 329 remaining projected deficit incurred in a particular calendar
 330 year is not greater than 6 percent of the aggregate statewide
 331 direct written premium for the subject lines of business for the
 332 prior calendar year, the entire deficit shall be recovered
 333 through regular assessments of assessable insurers under
 334 paragraph (q) and assessable insureds.

335 b. After accounting for the Citizens policyholder
 336 surcharge imposed under sub-subparagraph i., when the remaining

337 | projected deficit incurred in a particular calendar year exceeds
 338 | 6 percent of the aggregate statewide direct written premium for
 339 | the subject lines of business for the prior calendar year, the
 340 | corporation shall levy regular assessments on assessable
 341 | insurers under paragraph (q) and on assessable insureds in an
 342 | amount equal to the greater of 6 percent of the deficit or 6
 343 | percent of the aggregate statewide direct written premium for
 344 | the subject lines of business for the prior calendar year. Any
 345 | remaining deficit shall be recovered through emergency
 346 | assessments under sub-subparagraph d.

347 | c. Each assessable insurer's share of the amount being
 348 | assessed under sub-subparagraph a. or sub-subparagraph b. must
 349 | ~~shall~~ be in the proportion that the assessable insurer's direct
 350 | written premium for the subject lines of business for the year
 351 | preceding the assessment bears to the aggregate statewide direct
 352 | written premium for the subject lines of business for that year.
 353 | The applicable assessment percentage ~~applicable to each~~
 354 | ~~assessable insured~~ is the ratio of the amount being assessed
 355 | under sub-subparagraph a. or sub-subparagraph b. to the
 356 | aggregate statewide direct written premium for the subject lines
 357 | of business for the prior year. Assessments levied by the
 358 | corporation on assessable insurers under sub-subparagraphs a.
 359 | and b. must ~~shall~~ be paid as required by the corporation's plan
 360 | of operation and paragraph (q). Assessments levied by the
 361 | corporation on assessable insureds under sub-subparagraphs a.
 362 | and b. shall be collected by the surplus lines agent at the time
 363 | the surplus lines agent collects the surplus lines tax required
 364 | by s. 626.932 and ~~shall be~~ paid to the Florida Surplus Lines

365 Service Office at the time the surplus lines agent pays the
 366 surplus lines tax to that ~~the Florida Surplus Lines Service~~
 367 office. Upon receipt of regular assessments from surplus lines
 368 agents, the Florida Surplus Lines Service Office shall transfer
 369 the assessments directly to the corporation as determined by the
 370 corporation.

371 d. Upon a determination by the board of governors that a
 372 deficit in an account exceeds the amount that will be recovered
 373 through regular assessments under sub-subparagraph a. or sub-
 374 subparagraph b., plus the amount that is expected to be
 375 recovered through surcharges under sub-subparagraph i., ~~as to~~
 376 ~~the remaining projected deficit~~ the board shall levy, after
 377 verification by the office, shall levy emergency assessments,
 378 for as many years as necessary to cover the deficits, to be
 379 collected by assessable insurers and the corporation and
 380 collected from assessable insureds upon issuance or renewal of
 381 policies for subject lines of business, excluding National Flood
 382 Insurance policies. The amount of the emergency assessment
 383 collected in a particular year must ~~shall~~ be a uniform
 384 percentage of that year's direct written premium for subject
 385 lines of business ~~and all accounts of the corporation~~, excluding
 386 National Flood Insurance Program policy premiums, as annually
 387 determined by the board and verified by the office. For all
 388 accounts of the corporation, the amount of the emergency
 389 assessment levied in a particular year must be a uniform
 390 percentage equal to 1 1/2 times the uniform percentage emergency
 391 assessment levied on subject lines of business. The office shall
 392 verify the arithmetic calculations involved in the board's

393 determination within 30 days after receipt of the information on
 394 which the determination was based. Notwithstanding any other
 395 provision of law, the corporation and each assessable insurer
 396 that writes subject lines of business shall collect emergency
 397 assessments from its policyholders without such obligation being
 398 affected by any credit, limitation, exemption, or deferment.
 399 Emergency assessments levied by the corporation on assessable
 400 insureds shall be collected by the surplus lines agent at the
 401 time the surplus lines agent collects the surplus lines tax
 402 required by s. 626.932 and ~~shall be~~ paid to the Florida Surplus
 403 Lines Service Office at the time the surplus lines agent pays
 404 the surplus lines tax to that ~~the Florida Surplus Lines Service~~
 405 office. The emergency assessments ~~so~~ collected shall be
 406 transferred directly to the corporation on a periodic basis as
 407 determined by the corporation and ~~shall be~~ held by the
 408 corporation solely in the applicable account. The aggregate
 409 amount of emergency assessments levied for an account under this
 410 sub-subparagraph in any calendar year may, ~~at the discretion of~~
 411 ~~the board of governors,~~ be less than but ~~may~~ not exceed the
 412 greater of 10 percent of the amount needed to cover the deficit,
 413 plus interest, fees, commissions, required reserves, and other
 414 costs associated with financing ~~of~~ the original deficit, or 10
 415 percent of the aggregate statewide direct written premium for
 416 subject lines of business and 15 percent for all accounts of the
 417 corporation for the prior year, plus interest, fees,
 418 commissions, required reserves, and other costs associated with
 419 financing the deficit.

420 e. The corporation may pledge the proceeds of assessments,

421 | projected recoveries from the Florida Hurricane Catastrophe
 422 | Fund, other insurance and reinsurance recoverables, policyholder
 423 | surcharges and other surcharges, and other funds available to
 424 | the corporation as the source of revenue for and to secure bonds
 425 | issued under paragraph (q), bonds or other indebtedness issued
 426 | under subparagraph (c)2.3, or lines of credit or other
 427 | financing mechanisms issued or created under this subsection, or
 428 | to retire any other debt incurred as a result of deficits or
 429 | events giving rise to deficits, or in any other way that the
 430 | board determines will efficiently recover such deficits. The
 431 | purpose of the lines of credit or other financing mechanisms is
 432 | to provide additional resources to assist the corporation in
 433 | covering claims and expenses attributable to a catastrophe. As
 434 | used in this subsection, the term "assessments" includes regular
 435 | assessments under sub-subparagraph a., sub-subparagraph b., or
 436 | subparagraph (q)1. and emergency assessments under sub-
 437 | subparagraph d. Emergency assessments collected under sub-
 438 | subparagraph d. are not part of an insurer's rates, are not
 439 | premium, and are not subject to premium tax, fees, or
 440 | commissions; however, failure to pay the emergency assessment
 441 | shall be treated as failure to pay premium. The emergency
 442 | assessments under sub-subparagraph d. shall continue as long as
 443 | any bonds issued or other indebtedness incurred with respect to
 444 | a deficit for which the assessment was imposed remain
 445 | outstanding, unless adequate provision has been made for the
 446 | payment of such bonds or other indebtedness pursuant to the
 447 | documents governing such bonds or ~~other~~ indebtedness.
 448 | f. As used in this subsection for purposes of any deficit

449 incurred on or after January 25, 2007, the term "subject lines
 450 of business" means insurance written by assessable insurers or
 451 procured by assessable insureds for all property and casualty
 452 lines of business in this state, but not including workers'
 453 compensation or medical malpractice. As used in this ~~the~~ sub-
 454 subparagraph, the term "property and casualty lines of business"
 455 includes all lines of business identified on Form 2, Exhibit of
 456 Premiums and Losses, in the annual statement required of
 457 authorized insurers under ~~by~~ s. 624.424 and any rule adopted
 458 under this section, except for those lines identified as
 459 accident and health insurance and except for policies written
 460 under the National Flood Insurance Program or the Federal Crop
 461 Insurance Program. For purposes of this sub-subparagraph, the
 462 term "workers' compensation" includes both workers' compensation
 463 insurance and excess workers' compensation insurance.

464 g. The Florida Surplus Lines Service Office shall
 465 determine annually the aggregate statewide written premium in
 466 subject lines of business procured by assessable insureds and
 467 ~~shall~~ report that information to the corporation in a form and
 468 at a time the corporation specifies to ensure that the
 469 corporation can meet the requirements of this subsection and the
 470 corporation's financing obligations.

471 h. The Florida Surplus Lines Service Office shall verify
 472 the proper application by surplus lines agents of assessment
 473 percentages for regular assessments and emergency assessments
 474 levied under this subparagraph on assessable insureds and ~~shall~~
 475 assist the corporation in ensuring the accurate, timely
 476 collection and payment of assessments by surplus lines agents as

477 required by the corporation.

478 i. If a deficit is incurred in any account in 2011 ~~2008~~ or
 479 thereafter, the board of governors shall levy a Citizens
 480 policyholder surcharge against all policyholders of the
 481 corporation.

482 (I) The surcharge for a 12-month period, which shall be
 483 levied collected at the time of issuance or renewal of a policy,
 484 as a uniform percentage of the premium for the policy of up to
 485 15 percent of such premium, which funds shall be used to offset
 486 the deficit.

487 (II) It is the intent of the Legislature that the
 488 policyholder's liability for the surcharge attach on the date of
 489 the order levying the surcharge. The surcharge is payable upon
 490 cancellation or termination of the policy, upon renewal of the
 491 policy, or upon issuance of a new policy by the corporation
 492 within the first 12 months after the date of the levy or the
 493 period of time necessary to fully collect the surcharge amount.

494 (III) The corporation may not levy any regular assessments
 495 under paragraph (q) pursuant to sub-subparagraph a. or sub-
 496 subparagraph b. with respect to a particular year's deficit
 497 until the corporation has first levied a surcharge under this
 498 sub-subparagraph in the full amount authorized by this sub-
 499 subparagraph.

500 (IV) The Citizens policyholder surcharge is ~~surcharges~~
 501 ~~under this sub-subparagraph~~ are not considered premium and is
 502 ~~are~~ not subject to commissions, fees, or premium taxes. However,
 503 failure to pay the surcharge ~~such surcharges~~ shall be treated as
 504 failure to pay premium.

505 j. If the amount of any assessments or surcharges
 506 collected from corporation policyholders, assessable insurers or
 507 their policyholders, or assessable insureds exceeds the amount
 508 of the deficits, such excess amounts shall be remitted to and
 509 retained by the corporation in a reserve to be used by the
 510 corporation, as determined by the board of governors and
 511 approved by the office, to pay claims or reduce any past,
 512 present, or future plan-year deficits or to reduce outstanding
 513 debt.

514 (c) The ~~plan of operation of the~~ corporation:

515 1. Must provide ~~for adoption of~~ residential property and
 516 casualty insurance policy forms and commercial residential and
 517 nonresidential property insurance forms, which ~~forms~~ must be
 518 approved by the office before ~~prior to~~ use. The corporation
 519 shall adopt the following policy forms:

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

524 b. Basic personal lines policy forms that are policies
 525 similar to an HO-8 policy or a dwelling fire policy that provide
 526 coverage meeting the requirements of the secondary mortgage
 527 market, but which ~~coverage~~ is more limited than the coverage
 528 under a standard policy.

529 c. Commercial lines residential and nonresidential policy
 530 forms that are generally similar to the basic perils of full
 531 coverage obtainable for commercial residential structures and
 532 commercial nonresidential structures in the admitted voluntary

533 market.

534 d. Personal lines and commercial lines residential
 535 property insurance forms that cover the peril of wind only. The
 536 forms are applicable only to residential properties located in
 537 areas eligible for coverage under the high-risk account referred
 538 to in sub-subparagraph (b)2.a.

539 e. Commercial lines nonresidential property insurance
 540 forms that cover the peril of wind only. The forms are
 541 applicable only to nonresidential properties located in areas
 542 eligible for coverage under the high-risk account referred to in
 543 sub-subparagraph (b)2.a.

544 f. The corporation may adopt variations of the policy
 545 forms listed in sub-subparagraphs a.-e. which ~~that~~ contain more
 546 restrictive coverage.

547 ~~2.a. Must provide that the corporation adopt a program in~~
 548 ~~which the corporation and authorized insurers enter into quota~~
 549 ~~share primary insurance agreements for hurricane coverage, as~~
 550 ~~defined in s. 627.4025(2)(a), for eligible risks, and adopt~~
 551 ~~property insurance forms for eligible risks which cover the~~
 552 ~~peril of wind only. As used in this subsection, the term:~~

553 ~~(I) "Quota share primary insurance" means an arrangement~~
 554 ~~in which the primary hurricane coverage of an eligible risk is~~
 555 ~~provided in specified percentages by the corporation and an~~
 556 ~~authorized insurer. The corporation and authorized insurer are~~
 557 ~~each solely responsible for a specified percentage of hurricane~~
 558 ~~coverage of an eligible risk as set forth in a quota share~~
 559 ~~primary insurance agreement between the corporation and an~~
 560 ~~authorized insurer and the insurance contract. The~~

561 ~~responsibility of the corporation or authorized insurer to pay~~
 562 ~~its specified percentage of hurricane losses of an eligible~~
 563 ~~risk, as set forth in the quota share primary insurance~~
 564 ~~agreement, may not be altered by the inability of the other~~
 565 ~~party to the agreement to pay its specified percentage of~~
 566 ~~hurricane losses. Eligible risks that are provided hurricane~~
 567 ~~coverage through a quota share primary insurance arrangement~~
 568 ~~must be provided policy forms that set forth the obligations of~~
 569 ~~the corporation and authorized insurer under the arrangement,~~
 570 ~~clearly specify the percentages of quota share primary insurance~~
 571 ~~provided by the corporation and authorized insurer, and~~
 572 ~~conspicuously and clearly state that neither the authorized~~
 573 ~~insurer nor the corporation may be held responsible beyond its~~
 574 ~~specified percentage of coverage of hurricane losses.~~

575 ~~(II) "Eligible risks" means personal lines residential and~~
 576 ~~commercial lines residential risks that meet the underwriting~~
 577 ~~criteria of the corporation and are located in areas that were~~
 578 ~~eligible for coverage by the Florida Windstorm Underwriting~~
 579 ~~Association on January 1, 2002.~~

580 ~~b. The corporation may enter into quota share primary~~
 581 ~~insurance agreements with authorized insurers at corporation~~
 582 ~~coverage levels of 90 percent and 50 percent.~~

583 ~~e. If the corporation determines that additional coverage~~
 584 ~~levels are necessary to maximize participation in quota share~~
 585 ~~primary insurance agreements by authorized insurers, the~~
 586 ~~corporation may establish additional coverage levels. However,~~
 587 ~~the corporation's quota share primary insurance coverage level~~
 588 ~~may not exceed 90 percent.~~

589 ~~d. Any quota share primary insurance agreement entered~~
 590 ~~into between an authorized insurer and the corporation must~~
 591 ~~provide for a uniform specified percentage of coverage of~~
 592 ~~hurricane losses, by county or territory as set forth by the~~
 593 ~~corporation board, for all eligible risks of the authorized~~
 594 ~~insurer covered under the quota share primary insurance~~
 595 ~~agreement.~~

596 ~~e. Any quota share primary insurance agreement entered~~
 597 ~~into between an authorized insurer and the corporation is~~
 598 ~~subject to review and approval by the office. However, such~~
 599 ~~agreement shall be authorized only as to insurance contracts~~
 600 ~~entered into between an authorized insurer and an insured who is~~
 601 ~~already insured by the corporation for wind coverage.~~

602 ~~f. For all eligible risks covered under quota share~~
 603 ~~primary insurance agreements, the exposure and coverage levels~~
 604 ~~for both the corporation and authorized insurers shall be~~
 605 ~~reported by the corporation to the Florida Hurricane Catastrophe~~
 606 ~~Fund. For all policies of eligible risks covered under quota~~
 607 ~~share primary insurance agreements, the corporation and the~~
 608 ~~authorized insurer shall maintain complete and accurate records~~
 609 ~~for the purpose of exposure and loss reimbursement audits as~~
 610 ~~required by Florida Hurricane Catastrophe Fund rules. The~~
 611 ~~corporation and the authorized insurer shall each maintain~~
 612 ~~duplicate copies of policy declaration pages and supporting~~
 613 ~~claims documents.~~

614 ~~g. The corporation board shall establish in its plan of~~
 615 ~~operation standards for quota share agreements which ensure that~~
 616 ~~there is no discriminatory application among insurers as to the~~

617 ~~terms of quota share agreements, pricing of quota share~~
 618 ~~agreements, incentive provisions if any, and consideration paid~~
 619 ~~for servicing policies or adjusting claims.~~

620 ~~h. The quota share primary insurance agreement between the~~
 621 ~~corporation and an authorized insurer must set forth the~~
 622 ~~specific terms under which coverage is provided, including, but~~
 623 ~~not limited to, the sale and servicing of policies issued under~~
 624 ~~the agreement by the insurance agent of the authorized insurer~~
 625 ~~producing the business, the reporting of information concerning~~
 626 ~~eligible risks, the payment of premium to the corporation, and~~
 627 ~~arrangements for the adjustment and payment of hurricane claims~~
 628 ~~incurred on eligible risks by the claims adjuster and personnel~~
 629 ~~of the authorized insurer. Entering into a quota sharing~~
 630 ~~insurance agreement between the corporation and an authorized~~
 631 ~~insurer shall be voluntary and at the discretion of the~~
 632 ~~authorized insurer.~~

633 ~~2.3. May provide that the corporation may employ or~~
 634 ~~otherwise contract with individuals or other entities to provide~~
 635 ~~administrative or professional services that may be appropriate~~
 636 ~~to effectuate the plan.~~

637 ~~a. The corporation may shall have the power to borrow~~
 638 ~~funds, by issuing bonds or by incurring other indebtedness, and~~
 639 ~~shall have other powers reasonably necessary to effectuate the~~
 640 ~~requirements of this subsection, including, without limitation,~~
 641 ~~the power to issue bonds and incur other indebtedness in order~~
 642 ~~to refinance outstanding bonds or other indebtedness. The~~
 643 ~~corporation may, but is not required to, seek judicial~~
 644 ~~validation of its bonds or other indebtedness under chapter 75.~~

645 The corporation may issue bonds or incur other indebtedness, or
 646 have bonds issued on its behalf by a unit of local government
 647 pursuant to subparagraph (q)2., in the absence of a hurricane or
 648 other weather-related event, upon a determination by the
 649 corporation, subject to approval by the office, that such action
 650 would enable it to efficiently meet the financial obligations of
 651 the corporation and that such financings are reasonably
 652 necessary to effectuate the requirements of this subsection. The
 653 corporation may ~~is authorized to~~ take all actions needed to
 654 facilitate tax-free status for ~~any~~ such bonds or indebtedness,
 655 including formation of trusts or other affiliated entities. The
 656 corporation may ~~shall have the authority to~~ pledge assessments,
 657 projected recoveries from the Florida Hurricane Catastrophe
 658 Fund, other reinsurance recoverables, market equalization and
 659 other surcharges, and other funds available to the corporation
 660 as security for bonds or other indebtedness. In recognition of
 661 s. 10, Art. I of the State Constitution, prohibiting the
 662 impairment of obligations of contracts, it is the intent of the
 663 Legislature that no action be taken whose purpose is to impair
 664 any bond indenture or financing agreement or any revenue source
 665 committed by contract to such bond or other indebtedness.

666 b. To ensure that the corporation is operating in an
 667 efficient and economic manner while providing quality service to
 668 policyholders, applicants, and agents, the board shall
 669 commission an independent third-party consultant having
 670 expertise in insurance company management or insurance company
 671 management consulting to prepare a report and make
 672 recommendations on the relative costs and benefits of

673 outsourcing various policy issuance and service functions to
 674 private servicing carriers or entities performing similar
 675 functions in the private market for a fee, rather than
 676 performing such functions in house. In making such
 677 recommendations, the consultant shall consider how other
 678 residual markets, both in this state and around the country,
 679 outsource appropriate functions or use servicing carriers to
 680 better match expenses with revenues that fluctuate based on a
 681 widely varying policy count. The report must be completed by
 682 July 1, 2012. Upon receiving the report, the board shall develop
 683 a plan to implement the report and submit the plan for review,
 684 modification, and approval to the Financial Services Commission.
 685 Upon the commission's approval of the plan, the board shall
 686 begin implementing the plan by January 1, 2013.

687 3.4.a. ~~Must require that the corporation~~ operate subject
 688 to the supervision and approval of a board of governors
 689 consisting of eight individuals who are residents of this state,
 690 from different geographical areas of this state.

691 a. The Governor, the Chief Financial Officer, the
 692 President of the Senate, and the Speaker of the House of
 693 Representatives shall each appoint two members of the board. At
 694 least one of the two members appointed by each appointing
 695 officer must have demonstrated expertise in insurance and be
 696 within the scope of the exemption provided in s. 112.313(7)(b).
 697 The Chief Financial Officer shall designate one of the
 698 appointees as chair. All board members serve at the pleasure of
 699 the appointing officer. All members of the board ~~of governors~~
 700 are subject to removal at will by the officers who appointed

701 | them. All board members, including the chair, must be appointed
 702 | to serve for 3-year terms beginning annually on a date
 703 | designated by the plan. However, for the first term beginning on
 704 | or after July 1, 2009, each appointing officer shall appoint one
 705 | member of the board for a 2-year term and one member for a 3-
 706 | year term. A ~~Any~~ board vacancy shall be filled for the unexpired
 707 | term by the appointing officer. The Chief Financial Officer
 708 | shall appoint a technical advisory group to provide information
 709 | and advice to the board ~~of governors~~ in connection with the
 710 | board's duties under this subsection. The executive director and
 711 | senior managers of the corporation shall be engaged by the board
 712 | and serve at the pleasure of the board. Any executive director
 713 | appointed on or after July 1, 2006, is subject to confirmation
 714 | by the Senate. The executive director is responsible for
 715 | employing other staff as the corporation may require, subject to
 716 | review and concurrence by the board.

717 | b. The board shall create a Market Accountability Advisory
 718 | Committee to assist the corporation in developing awareness of
 719 | its rates and its customer and agent service levels in
 720 | relationship to the voluntary market insurers writing similar
 721 | coverage and to provide advice on issues regarding agent
 722 | appointments and compensation.

723 | (I) The members of the advisory committee shall consist of
 724 | the following 11 persons, one of whom must be elected chair by
 725 | the members of the committee: four representatives, one
 726 | appointed by the Florida Association of Insurance Agents, one by
 727 | the National ~~Florida~~ Association of Insurance and Financial
 728 | Advisors-Florida ~~Advisors~~, one by the Professional Insurance

729 Agents of Florida, and one by the Latin American Association of
 730 Insurance Agencies; three representatives appointed by the
 731 insurers with the three highest voluntary market share of
 732 residential property insurance business in the state; one
 733 representative from the Office of Insurance Regulation; one
 734 consumer appointed by the board who is insured by the
 735 corporation at the time of appointment to the committee; one
 736 representative appointed by the Florida Association of Realtors;
 737 and one representative appointed by the Florida Bankers
 738 Association. All members shall be appointed to ~~must serve for~~ 3-
 739 year terms and may serve for consecutive terms.

740 (II) The committee shall report to the corporation at each
 741 board meeting on insurance market issues which may include rates
 742 and rate competition with the voluntary market; service,
 743 including policy issuance, claims processing, and general
 744 responsiveness to policyholders, applicants, and agents; and
 745 matters relating to depopulation, producer compensation, or
 746 agency agreements.

747 ~~4.5.~~ Must provide a procedure for determining the
 748 eligibility of a risk for coverage, as follows:

749 a. Subject to ~~the provisions of~~ s. 627.3517, with respect
 750 to personal lines residential risks, if the risk is offered
 751 coverage from an authorized insurer at the insurer's approved
 752 rate under ~~either~~ a standard policy including wind coverage or,
 753 if consistent with the insurer's underwriting rules as filed
 754 with the office, a basic policy including wind coverage, for a
 755 new application to the corporation for coverage, the risk is not
 756 eligible for any policy issued by the corporation ~~unless the~~

757 ~~premium for coverage from the authorized insurer is more than 15~~
 758 ~~percent greater than the premium for comparable coverage from~~
 759 ~~the corporation.~~ If the risk is not able to obtain any such
 760 offer, the risk is eligible for ~~either~~ a standard policy
 761 including wind coverage or a basic policy including wind
 762 coverage issued by the corporation; however, if the risk could
 763 not be insured under a standard policy including wind coverage
 764 regardless of market conditions, the risk is ~~shall be~~ eligible
 765 for a basic policy including wind coverage unless rejected under
 766 subparagraph 7. ~~8.~~ Notwithstanding these limitations, an
 767 application for coverage having an effective date before January
 768 1, 2015, is eligible for coverage by the corporation if the
 769 premium for coverage from an authorized insurer exceeds the
 770 premium for comparable coverage from the corporation by more
 771 than 25 percent. ~~However, with regard to a policyholder of the~~
 772 ~~corporation or a policyholder removed from the corporation~~
 773 ~~through an assumption agreement until the end of the assumption~~
 774 ~~period, the policyholder remains eligible for coverage from the~~
 775 ~~corporation regardless of any offer of coverage from an~~
 776 ~~authorized insurer or surplus lines insurer.~~ The corporation
 777 shall determine the type of policy to be provided on the basis
 778 of objective standards specified in the underwriting manual and
 779 based on generally accepted underwriting practices.

780 (I) If the risk accepts an offer of coverage through the
 781 market assistance plan or ~~an offer of coverage~~ through a
 782 mechanism established by the corporation before a policy is
 783 issued to the risk by the corporation or during the first 30
 784 days of coverage by the corporation, and the producing agent who

785 submitted the application to the plan or to the corporation is
 786 not currently appointed by the insurer, the insurer shall:

787 (A) Pay to the producing agent of record of the policy,
 788 for the first year, an amount that is the greater of the
 789 insurer's usual and customary commission for the type of policy
 790 written or a fee equal to the usual and customary commission of
 791 the corporation; or

792 (B) Offer to allow the producing agent of record of the
 793 policy to continue servicing the policy for at least ~~a period of~~
 794 ~~not less than~~ 1 year and offer to pay the agent the greater of
 795 the insurer's or the corporation's usual and customary
 796 commission for the type of policy written.

797
 798 If the producing agent is unwilling or unable to accept
 799 appointment, the new insurer shall pay the agent in accordance
 800 with sub-sub-sub-subparagraph (A).

801 (II) If ~~When~~ the corporation enters into a contractual
 802 agreement for a take-out plan, the producing agent of record of
 803 the corporation policy is entitled to retain any unearned
 804 commission on the policy, and the insurer shall:

805 (A) Pay to the producing agent ~~of record of the~~
 806 ~~corporation policy~~, for the first year, an amount that is the
 807 greater of the insurer's usual and customary commission for the
 808 type of policy written or a fee equal to the usual and customary
 809 commission of the corporation; or

810 (B) Offer to allow the producing agent ~~of record of the~~
 811 ~~corporation policy~~ to continue servicing the policy for at least
 812 ~~a period of not less than~~ 1 year and offer to pay the agent the

813 greater of the insurer's or the corporation's usual and
 814 customary commission for the type of policy written.

815
 816 If the producing agent is unwilling or unable to accept
 817 appointment, the new insurer shall pay the agent in accordance
 818 with sub-sub-sub-subparagraph (A).

819 b. Subject to s. 627.3517, with respect to commercial
 820 lines residential risks, ~~for a new application to the~~
 821 ~~corporation for coverage,~~ if the risk is offered coverage under
 822 a policy including wind coverage from an authorized insurer at
 823 its approved rate, the risk is not eligible for a any policy
 824 issued by the corporation ~~unless the premium for coverage from~~
 825 ~~the authorized insurer is more than 15 percent greater than the~~
 826 ~~premium for comparable coverage from the corporation.~~ If the
 827 risk is not able to obtain any such offer, the risk is eligible
 828 for a policy including wind coverage issued by the corporation.
 829 Notwithstanding these limitations, an application for coverage
 830 having an effective date before January 1, 2015, is eligible for
 831 coverage by the corporation if the premium for coverage from an
 832 authorized insurer exceeds the premium for comparable coverage
 833 from the corporation by more than 25 percent. ~~However, with~~
 834 ~~regard to a policyholder of the corporation or a policyholder~~
 835 ~~removed from the corporation through an assumption agreement~~
 836 ~~until the end of the assumption period, the policyholder remains~~
 837 ~~eligible for coverage from the corporation regardless of any~~
 838 ~~offer of coverage from an authorized insurer or surplus lines~~
 839 ~~insurer.~~

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

841 market assistance plan or ~~an offer of coverage~~ through a
 842 mechanism established by the corporation before a policy is
 843 issued to the risk by the corporation or during the first 30
 844 days of coverage by the corporation, and the producing agent who
 845 submitted the application to the plan or the corporation is not
 846 currently appointed by the insurer, the insurer shall:

847 (A) Pay to the producing agent ~~of record of the policy,~~
 848 for the first year, an amount that is the greater of the
 849 insurer's usual and customary commission for the type of policy
 850 written or a fee equal to the usual and customary commission of
 851 the corporation; or

852 (B) Offer to allow the producing agent ~~of record of the~~
 853 ~~policy~~ to continue servicing the policy for at least a period of
 854 ~~not less than~~ 1 year and offer to pay the agent the greater of
 855 the insurer's or the corporation's usual and customary
 856 commission for the type of policy written.

857
 858 If the producing agent is unwilling or unable to accept
 859 appointment, the new insurer shall pay the agent in accordance
 860 with sub-sub-sub-subparagraph (A).

861 (II) If ~~When~~ the corporation enters into a contractual
 862 agreement for a take-out plan, the producing agent of record of
 863 the corporation policy is entitled to retain any unearned
 864 commission on the policy, and the insurer shall:

865 (A) Pay to the producing agent ~~of record of the~~
 866 ~~corporation policy,~~ for the first year, an amount that is the
 867 greater of the insurer's usual and customary commission for the
 868 type of policy written or a fee equal to the usual and customary

869 commission of the corporation; or

870 (B) Offer to allow the producing agent ~~of record of the~~
 871 ~~corporation policy~~ to continue servicing the policy for at least
 872 ~~a period of not less than~~ 1 year and offer to pay the agent the
 873 greater of the insurer's or the corporation's usual and
 874 customary commission for the type of policy written.

875
 876 If the producing agent is unwilling or unable to accept
 877 appointment, the new insurer shall pay the agent in accordance
 878 with sub-sub-sub-subparagraph (A).

879 c. For purposes of determining comparable coverage under
 880 sub-subparagraphs a. and b., the comparison shall be based on
 881 those forms and coverages that are reasonably comparable. The
 882 corporation may rely on a determination of comparable coverage
 883 and premium made by the producing agent who submits the
 884 application to the corporation, made in the agent's capacity as
 885 the corporation's agent. A comparison may be made solely of the
 886 premium with respect to the main building or structure only on
 887 the following basis: the same coverage A or other building
 888 limits; the same percentage hurricane deductible that applies on
 889 an annual basis or that applies to each hurricane for commercial
 890 residential property; the same percentage of ordinance and law
 891 coverage, if the same limit is offered by both the corporation
 892 and the authorized insurer; the same mitigation credits, to the
 893 extent the same types of credits are offered both by the
 894 corporation and the authorized insurer; the same method for loss
 895 payment, such as replacement cost or actual cash value, if the
 896 same method is offered both by the corporation and the

897 | authorized insurer in accordance with underwriting rules; and
 898 | any other form or coverage that is reasonably comparable as
 899 | determined by the board. If an application is submitted to the
 900 | corporation for wind-only coverage in the high-risk account, the
 901 | premium for the corporation's wind-only policy plus the premium
 902 | for the ex-wind policy that is offered by an authorized insurer
 903 | to the applicant shall be compared to the premium for multiperil
 904 | coverage offered by an authorized insurer, subject to the
 905 | standards for comparison specified in this subparagraph. If the
 906 | corporation or the applicant requests from the authorized
 907 | insurer a breakdown of the premium of the offer by types of
 908 | coverage so that a comparison may be made by the corporation or
 909 | its agent and the authorized insurer refuses or is unable to
 910 | provide such information, the corporation may treat the offer as
 911 | not being an offer of coverage from an authorized insurer at the
 912 | insurer's approved rate.

913 | ~~5.6.~~ Must include rules for classifications of risks and
 914 | rates ~~therefor~~.

915 | ~~6.7.~~ Must provide that if premium and investment income
 916 | for an account attributable to a particular calendar year are in
 917 | excess of projected losses and expenses for the account
 918 | attributable to that year, such excess shall be held in surplus
 919 | in the account. Such surplus must ~~shall~~ be available to defray
 920 | deficits in that account as to future years and ~~shall be~~ used
 921 | for that purpose before ~~prior to~~ assessing assessable insurers
 922 | and assessable insureds as to any calendar year.

923 | ~~7.8.~~ Must provide objective criteria and procedures to be
 924 | uniformly applied to ~~for~~ all applicants in determining whether

925 an individual risk is so hazardous as to be uninsurable. In
 926 making this determination and in establishing the criteria and
 927 procedures, the following must ~~shall~~ be considered:

928 a. Whether the likelihood of a loss for the individual
 929 risk is substantially higher than for other risks of the same
 930 class; and

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

933
 934 The acceptance or rejection of a risk by the corporation shall
 935 be construed as the private placement of insurance, and the
 936 provisions of chapter 120 do ~~shall~~ not apply.

937 ~~8.9. Must provide that the corporation~~ Shall make its best
 938 efforts to procure catastrophe reinsurance at reasonable rates,
 939 to cover its projected 100-year probable maximum loss as
 940 determined by the board of governors.

941 ~~9.10. Must issue~~ The policies that issued by the
 942 ~~corporation must~~ provide that, if the corporation or the market
 943 assistance plan obtains an offer from an authorized insurer to
 944 cover the risk at its approved rates, the risk is no longer
 945 eligible for renewal through the corporation, except as
 946 otherwise provided in this subsection.

947 ~~10.11. Must Corporation Policies and applications must~~
 948 include a notice in the corporation policies and applications
 949 that the corporation policy could, under this section, be
 950 replaced with a policy issued by an authorized insurer which
 951 ~~that~~ does not provide coverage identical to the coverage
 952 provided by the corporation. The notice must ~~shall~~ also specify

953 that acceptance of corporation coverage creates a conclusive
 954 presumption that the applicant or policyholder is aware of this
 955 potential.

956 ~~11.12.~~ May establish, subject to approval by the office,
 957 different eligibility requirements and operational procedures
 958 for any line or type of coverage for any specified county or
 959 area if the board determines that such changes ~~to the~~
 960 ~~eligibility requirements and operational procedures~~ are
 961 justified due to the voluntary market being sufficiently stable
 962 and competitive in such area or for such line or type of
 963 coverage and that consumers who, in good faith, are unable to
 964 obtain insurance through the voluntary market through ordinary
 965 methods ~~would~~ continue to have access to coverage from the
 966 corporation. ~~If~~ When coverage is sought in connection with a
 967 real property transfer, the ~~such~~ requirements and procedures may
 968 ~~shall~~ not provide ~~for~~ an effective date of coverage later than
 969 the date of the closing of the transfer as established by the
 970 transferor, the transferee, and, if applicable, the lender.

971 ~~12.13.~~ Must provide that, with respect to the high-risk
 972 account, any assessable insurer with a surplus as to
 973 policyholders of \$25 million or less writing 25 percent or more
 974 of its total countrywide property insurance premiums in this
 975 state may petition the office, within the first 90 days of each
 976 calendar year, to qualify as a limited apportionment company. A
 977 regular assessment levied by the corporation on a limited
 978 apportionment company for a deficit incurred by the corporation
 979 for the high-risk account ~~in 2006 or thereafter~~ may be paid to
 980 the corporation on a monthly basis as the assessments are

981 collected by the limited apportionment company from its insureds
 982 pursuant to s. 627.3512, but the regular assessment must be paid
 983 in full within 12 months after being levied by the corporation.
 984 A limited apportionment company shall collect from its
 985 policyholders any emergency assessment imposed under sub-
 986 subparagraph (b)3.d. ~~The plan shall provide that,~~ If the office
 987 determines that any regular assessment will result in an
 988 impairment of the surplus of a limited apportionment company,
 989 the office may direct that all or part of such assessment be
 990 deferred as provided in subparagraph (q)4. However, ~~there shall~~
 991 ~~be no limitation or deferment of~~ an emergency assessment to be
 992 collected from policyholders under sub-subparagraph (b)3.d. may
 993 not be limited or deferred.

994 13.14. Effective January 1, 2012, ~~must provide that the~~
 995 ~~corporation~~ appoint as its licensed agents only those agents who
 996 also hold an appointment as defined in s. 626.015(3) with an
 997 insurer who ~~at the time of the agent's initial appointment by~~
 998 ~~the corporation~~ is authorized to write and is actually writing
 999 personal lines residential property coverage, commercial
 1000 residential property coverage, or commercial nonresidential
 1001 property coverage within the state.

1002 14.15. ~~Must provide, by July 1, 2007,~~ a premium payment
 1003 plan option to its policyholders which, ~~allows~~ allows at a minimum,
 1004 allows for quarterly and semiannual payment of premiums. A
 1005 monthly payment plan may, ~~but is not required to,~~ be offered.

1006 15.16. Must limit coverage on mobile homes or manufactured
 1007 homes built before ~~prior to~~ 1994 to actual cash value of the
 1008 dwelling rather than replacement costs of the dwelling.

1009 16.17. May provide such limits of coverage as the board
 1010 determines, consistent with the requirements of this subsection.

1011 17.18. May require commercial property to meet specified
 1012 hurricane mitigation construction features as a condition of
 1013 eligibility for coverage.

1014 18. As of January 1, 2012, must require that the agent
 1015 obtain from an applicant for coverage from the corporation an
 1016 acknowledgement signed by the applicant, which includes, at a
 1017 minimum, the following statement:

1018
 1019 ACKNOWLEDGEMENT OF POTENTIAL SURCHARGE AND ASSESSMENT LIABILITY:

1020
 1021 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
 1022 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
 1023 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
 1024 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
 1025 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE
 1026 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT
 1027 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
 1028 LEGISLATURE.

1029 2. I ALSO UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
 1030 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
 1031 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
 1032 FLORIDA LEGISLATURE.

1033 3. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
 1034 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
 1035 STATE OF FLORIDA.

1036

1037 a. The corporation shall maintain, in electronic format or
 1038 otherwise, a copy of the applicant's signed acknowledgement and
 1039 provide a copy of the statement to the policyholder as part of
 1040 the first renewal after the effective date of this subparagraph.

1041 b. The signed acknowledgement form creates a conclusive
 1042 presumption that the policyholder understood and accepted his or
 1043 her potential surcharge and assessment liability as a
 1044 policyholder of the corporation.

1045 19. Upon notice and determination by the department that
 1046 an agent appointed by the corporation has violated s.
 1047 626.9541(1)(h), must immediately terminate the agent's
 1048 appointment to represent the corporation.

1049 20. Must provide that new or renewal policies issued by
 1050 the corporation on or after January 1, 2012, do not include
 1051 coverage for attached or detached screen enclosures. The
 1052 corporation is not required to issue a notice of nonrenewal to
 1053 exclude this coverage upon the renewal of current policies, but
 1054 shall exclude such coverage using a notice of coverage change.

1055 21. Must provide that new or renewal policies issued by
 1056 the corporation on or after January 1, 2012, which cover
 1057 sinkhole loss do not include coverage for any loss to
 1058 appurtenant structures, driveways, sidewalks, decks, or patios
 1059 which is caused directly or indirectly by sinkhole activity. The
 1060 corporation is not required to issue a notice of nonrenewal to
 1061 exclude this coverage upon the renewal of current policies, but
 1062 shall exclude such coverage using a notice of coverage change
 1063 which may be included with the policy renewal.

1064 (d)1. All prospective employees for senior management

1065 | positions, as defined by the plan of operation, are subject to
 1066 | background checks as a prerequisite for employment. The office
 1067 | shall conduct the background checks ~~on such prospective~~
 1068 | ~~employees~~ pursuant to ss. 624.34, 624.404(3), and 628.261.

1069 | 2. On or before July 1 of each year, employees of the
 1070 | corporation must ~~are required to~~ sign and submit a statement
 1071 | attesting that they do not have a conflict of interest, as
 1072 | defined in part III of chapter 112. As a condition of
 1073 | employment, all prospective employees must ~~are required to~~ sign
 1074 | and submit to the corporation a conflict-of-interest statement.

1075 | 3. Senior managers and members of the board of governors
 1076 | are subject to ~~the provisions of~~ part III of chapter 112,
 1077 | including, but not limited to, the code of ethics and public
 1078 | disclosure and reporting of financial interests, pursuant to s.
 1079 | 112.3145.

1080 | a. Senior managers and board members are also required to
 1081 | file such disclosures with the Commission on Ethics and the
 1082 | Office of Insurance Regulation. The executive director of the
 1083 | corporation or his or her designee shall notify each existing
 1084 | and newly appointed ~~and existing appointed~~ member of the board
 1085 | of governors and senior managers of their duty to comply with
 1086 | the reporting requirements of part III of chapter 112. At least
 1087 | quarterly, the executive director or his or her designee shall
 1088 | submit to the Commission on Ethics a list of names of the senior
 1089 | managers and members of the board of governors who are subject
 1090 | to the public disclosure requirements under s. 112.3145.

1091 | b. Notwithstanding s. 112.3143(2), a board member may not
 1092 | vote on any measure that would inure to his or her special

1093 private gain or loss; that he or she knows would inure to the
 1094 special private gain or loss of any principal by whom he or she
 1095 is retained or to the parent organization or subsidiary of a
 1096 corporate principal by which he or she is retained, other than
 1097 an agency as defined in s. 112.312; or that he or she knows
 1098 would inure to the special private gain or loss of a relative or
 1099 business associate of the public officer. Before the vote is
 1100 taken, such member must publicly state to the assembly the
 1101 nature of his or her interest in the matter from which he or she
 1102 is abstaining and, within 15 days after the vote occurs,
 1103 disclose the nature of his or her interest as a public record in
 1104 a memorandum filed with the person responsible for recording the
 1105 minutes of the meeting, who shall incorporate the memorandum in
 1106 the minutes.

1107 4. Notwithstanding s. 112.3148 or s. 112.3149, or any
 1108 other provision of law, an employee or board member may not
 1109 knowingly accept, directly or indirectly, any gift or
 1110 expenditure from a person or entity, or an employee or
 1111 representative of such person or entity, which ~~that~~ has a
 1112 contractual relationship with the corporation or who is under
 1113 consideration for a contract. An employee or board member who
 1114 fails to comply with subparagraph 3. or this subparagraph is
 1115 subject to penalties provided under ss. 112.317 and 112.3173.

1116 5. Any senior manager of the corporation who is employed
 1117 on or after January 1, 2007, regardless of the date of hire, who
 1118 subsequently retires or terminates employment is prohibited from
 1119 representing another person or entity before the corporation for
 1120 2 years after retirement or termination of employment from the

1121 corporation.

1122 6. Any senior manager of the corporation who is employed
 1123 on or after January 1, 2007, regardless of the date of hire, who
 1124 subsequently retires or terminates employment is prohibited from
 1125 having any employment or contractual relationship for 2 years
 1126 with an insurer that has entered into a take-out bonus agreement
 1127 with the corporation.

1128 (n)~~1~~. It is the intent of the Legislature that the rates
 1129 for coverage provided by the corporation be actuarially
 1130 determined and not be competitive with rates charged in the
 1131 admitted voluntary market such that the corporation functions as
 1132 a residual market mechanism that provides insurance only if such
 1133 insurance cannot be procured in the voluntary market. To achieve
 1134 this goal, for any rate filing made by the corporation on or
 1135 after July 1, 2011:

1136 1. Rates for coverage provided by the corporation shall be
 1137 actuarially sound and subject to the requirements of s. 627.062,
 1138 except as otherwise provided in this paragraph. The corporation
 1139 shall file its recommended rates with the office at least
 1140 annually. The office shall consider the recommended rates and
 1141 issue a final order establishing the rates within 45 days after
 1142 the recommended rates are filed. ~~The corporation shall provide~~
 1143 ~~any additional information regarding the rates which the office~~
 1144 ~~requires. The office shall consider the recommendations of the~~
 1145 ~~board and issue a final order establishing the rates for the~~
 1146 ~~corporation within 45 days after the recommended rates are~~
 1147 ~~filed.~~ The corporation may not pursue an administrative
 1148 challenge or judicial review of the final order of the office.

1149 2. In developing its rates, the corporation shall use an
 1150 appropriate industry expense equalization factor to ensure that
 1151 its rates include standard industry ratemaking expense
 1152 provisions. The industry expense equalization factor must
 1153 include a catastrophe risk load, a provision for taxes, a market
 1154 provision for reinsurance costs, and an industry expense
 1155 provision for general expenses, acquisition expenses, and
 1156 commissions.

1157 3. The corporation shall implement a rate increase each
 1158 year, which may not exceed 20 percent by territory and 25
 1159 percent for any single policy, excluding coverage changes and
 1160 surcharges. This subparagraph expires January 1, 2015, and does
 1161 not apply to rates for sinkhole coverage or costs for the
 1162 purchase of private reinsurance, if any.

1163 ~~4.2.~~ In addition to the rates otherwise determined
 1164 pursuant to this paragraph, the corporation shall impose and
 1165 collect an amount equal to the premium tax provided for in s.
 1166 624.509 to augment the financial resources of the corporation.

1167 ~~3. After the public hurricane loss projection model under~~
 1168 ~~s. 627.06281 has been found to be accurate and reliable by the~~
 1169 ~~Florida Commission on Hurricane Loss Projection Methodology,~~
 1170 ~~that model shall serve as the minimum benchmark for determining~~
 1171 ~~the windstorm portion of the corporation's rates. This~~
 1172 ~~subparagraph does not require or allow the corporation to adopt~~
 1173 ~~rates lower than the rates otherwise required or allowed by this~~
 1174 ~~paragraph.~~

1175 ~~4. The rate filings for the corporation which were~~
 1176 ~~approved by the office and which took effect January 1, 2007,~~

1177 ~~are rescinded, except for those rates that were lowered. As soon~~
 1178 ~~as possible, the corporation shall begin using the lower rates~~
 1179 ~~that were in effect on December 31, 2006, and shall provide~~
 1180 ~~refunds to policyholders who have paid higher rates as a result~~
 1181 ~~of that rate filing. The rates in effect on December 31, 2006,~~
 1182 ~~shall remain in effect for the 2007 and 2008 calendar years~~
 1183 ~~except for any rate change that results in a lower rate. The~~
 1184 ~~next rate change that may increase rates shall take effect~~
 1185 ~~pursuant to a new rate filing recommended by the corporation and~~
 1186 ~~established by the office, subject to the requirements of this~~
 1187 ~~paragraph.~~

1188 ~~5. Beginning on July 15, 2009, and each year thereafter,~~
 1189 ~~the corporation must make a recommended actuarially sound rate~~
 1190 ~~filing for each personal and commercial line of business it~~
 1191 ~~writes, to be effective no earlier than January 1, 2010.~~

1192 ~~6. Beginning on or after January 1, 2010, and~~
 1193 ~~notwithstanding the board's recommended rates and the office's~~
 1194 ~~final order regarding the corporation's filed rates under~~
 1195 ~~subparagraph 1., the corporation shall implement a rate increase~~
 1196 ~~each year which does not exceed 10 percent for any single policy~~
 1197 ~~issued by the corporation, excluding coverage changes and~~
 1198 ~~surcharges.~~

1199 ~~5.7.~~ The corporation may also implement an increase to
 1200 reflect the effect on the corporation of the cash buildup factor
 1201 pursuant to s. 215.555(5)(b).

1202 ~~8. The corporation's implementation of rates as prescribed~~
 1203 ~~in subparagraph 6. shall cease for any line of business written~~
 1204 ~~by the corporation upon the corporation's implementation of~~

1205 ~~actuarially sound rates. Thereafter, the corporation shall~~
 1206 ~~annually make a recommended actuarially sound rate filing for~~
 1207 ~~each commercial and personal line of business the corporation~~
 1208 ~~writes.~~

1209 (o) If coverage in an account is deactivated pursuant to
 1210 paragraph (p), coverage through the corporation shall be
 1211 reactivated by order of the office only under one of the
 1212 following circumstances:

1213 1. If the market assistance plan receives a minimum of 100
 1214 applications for coverage within a 3-month period, or 200
 1215 applications for coverage within a 1-year period or less for
 1216 residential coverage, unless the market assistance plan provides
 1217 a quotation from admitted carriers at their filed rates for at
 1218 least 90 percent of such applicants. A ~~Any~~ market assistance
 1219 plan application that is rejected because an individual risk is
 1220 so hazardous as to be uninsurable using the criteria specified
 1221 in subparagraph (c)7. ~~may (e)8. shall~~ not be included in the
 1222 minimum percentage calculation ~~provided herein.~~ If ~~In the event~~
 1223 ~~that~~ there is a legal or administrative challenge to a
 1224 determination by the office that the conditions of this
 1225 subparagraph have been met for eligibility for coverage by ~~in~~
 1226 the corporation, an ~~any~~ eligible risk may obtain coverage during
 1227 the pendency of such challenge.

1228 2. In response to a state of emergency declared by the
 1229 Governor under s. 252.36, the office may activate coverage by
 1230 order during ~~for the period of~~ the emergency upon a finding by
 1231 the office that the emergency significantly affects the
 1232 availability of residential property insurance.

1233 (s)1. There is ~~shall be~~ no liability on the part of, and
 1234 no cause of action ~~of any nature~~ shall arise against, any
 1235 assessable insurer or its agents or employees, the corporation
 1236 or its agents or employees, members of the board of governors or
 1237 their respective designees at a board meeting, corporation
 1238 committee members, or the office or its representatives, for any
 1239 action taken by them in the performance of their duties or
 1240 responsibilities under this subsection.

1241 a. As part of the immunity, the corporation, as a
 1242 governmental entity serving a public purpose, is not liable for
 1243 any claim for bad faith whether or not brought pursuant to s.
 1244 624.155, and this subsection or any other provision of law does
 1245 not create liability or a cause of action for bad faith or a
 1246 claim for extracontractual damages.

1247 b. Such immunity does not apply to:

1248 (I)a. Any of the foregoing persons or entities for any
 1249 willful tort;

1250 (II)b. The corporation or its producing agents for breach
 1251 of any contract or agreement pertaining to insurance coverage;

1252 (III)e. The corporation with respect to issuance or
 1253 payment of debt;

1254 (IV)d. An ~~Any~~ assessable insurer with respect to any
 1255 action to enforce an assessable insurer's obligations to the
 1256 corporation under this subsection; or

1257 (V)e. The corporation in any pending or future action for
 1258 breach of contract or for benefits under a policy issued by the
 1259 corporation. ~~+~~ In any such action, the corporation is ~~shall be~~
 1260 liable to the policyholders and beneficiaries for attorney's

1261 fees under s. 627.428.

1262 2. The corporation shall manage its claim employees,
 1263 independent adjusters, and others who handle claims to ensure
 1264 they carry out the corporation's duty to its policyholders to
 1265 handle claims carefully, timely, diligently, and in good faith,
 1266 balanced against the corporation's duty to the state to manage
 1267 its assets responsibly in order to minimize its assessment
 1268 potential.

1269 (w) Notwithstanding any other provision of law:

1270 1. The pledge or sale of, the lien upon, and the security
 1271 interest in any rights, revenues, or other assets of the
 1272 corporation created or purported to be created pursuant to any
 1273 financing documents to secure any bonds or other indebtedness of
 1274 the corporation shall be and remain valid and enforceable,
 1275 notwithstanding the commencement of and during the continuation
 1276 of, and after, any rehabilitation, insolvency, liquidation,
 1277 bankruptcy, receivership, conservatorship, reorganization, or
 1278 similar proceeding against the corporation under the laws of
 1279 this state.

1280 2. ~~No~~ Such proceeding does not shall relieve the
 1281 corporation of its obligation, or otherwise affect its ability
 1282 to perform its obligation, to continue to collect, or levy and
 1283 collect, assessments, market equalization or other surcharges
 1284 ~~under subparagraph (c)10.~~, or any other rights, revenues, or
 1285 other assets of the corporation pledged pursuant to any
 1286 financing documents.

1287 3. Each such pledge or sale of, lien upon, and security
 1288 interest in, including the priority of such pledge, lien, or

1289 security interest, any such assessments, market equalization or
 1290 other surcharges, or other rights, revenues, or other assets
 1291 which are collected, or levied and collected, after the
 1292 commencement of and during the pendency of, or after, any such
 1293 proceeding continues ~~shall continue~~ unaffected by such
 1294 proceeding. As used in this subsection, the term "financing
 1295 documents" means any agreement or agreements, instrument or
 1296 instruments, or other document or documents now existing or
 1297 hereafter created evidencing any bonds or other indebtedness of
 1298 the corporation or pursuant to which any such bonds or other
 1299 indebtedness has been or may be issued and pursuant to which any
 1300 rights, revenues, or other assets of the corporation are pledged
 1301 or sold to secure the repayment of such bonds or indebtedness,
 1302 together with the payment of interest on such bonds or such
 1303 indebtedness, or the payment of any other obligation or
 1304 financial product, as defined in the plan of operation of the
 1305 corporation related to such bonds or indebtedness.

1306 4. Any such pledge or sale of assessments, revenues,
 1307 contract rights, or other rights or assets of the corporation
 1308 constitutes ~~shall constitute~~ a lien and security interest, or
 1309 sale, as the case may be, that is immediately effective and
 1310 attaches to such assessments, revenues, or contract rights or
 1311 other rights or assets, whether or not imposed or collected at
 1312 the time the pledge or sale is made. ~~Any~~ Such pledge or sale is
 1313 effective, valid, binding, and enforceable against the
 1314 corporation or other entity making such pledge or sale, and
 1315 valid and binding against and superior to any competing claims
 1316 or obligations owed to any other person or entity, including

1317 | policyholders in this state, asserting rights in any such
 1318 | assessments, revenues, or contract rights or other rights or
 1319 | assets to the extent set forth in and in accordance with the
 1320 | terms of the pledge or sale contained in the applicable
 1321 | financing documents, whether or not any such person or entity
 1322 | has notice of such pledge or sale and without the need for any
 1323 | physical delivery, recordation, filing, or other action.

1324 | 5. If ~~As long as~~ the corporation has any bonds
 1325 | outstanding, the corporation may not file a voluntary petition
 1326 | under chapter 9 of the federal Bankruptcy Code or such
 1327 | corresponding chapter or sections as may be in effect, ~~from time~~
 1328 | ~~to time~~, and a public officer or any organization, entity, or
 1329 | other person may not authorize the corporation to be or become a
 1330 | debtor under chapter 9 of the federal Bankruptcy Code or such
 1331 | corresponding chapter or sections as may be in effect, ~~from time~~
 1332 | ~~to time~~, during any such period.

1333 | 6. If ordered by a court ~~of competent jurisdiction~~, the
 1334 | corporation may assume policies or otherwise provide coverage
 1335 | for policyholders of an insurer placed in liquidation under
 1336 | chapter 631, under such forms, rates, terms, and conditions as
 1337 | the corporation deems appropriate, subject to approval by the
 1338 | office.

1339 | (y) It is the intent of the Legislature that the
 1340 | amendments to this subsection enacted in 2002 should, over time,
 1341 | reduce the probable maximum windstorm losses in the residual
 1342 | markets and ~~should~~ reduce the potential assessments to be levied
 1343 | on property insurers and policyholders statewide. ~~In furtherance~~
 1344 | ~~of this intent:~~

1345 ~~1. The board shall, on or before February 1 of each year,~~
 1346 ~~provide a report to the President of the Senate and the Speaker~~
 1347 ~~of the House of Representatives showing the reduction or~~
 1348 ~~increase in the 100-year probable maximum loss attributable to~~
 1349 ~~wind-only coverages and the quota share program under this~~
 1350 ~~subsection combined, as compared to the benchmark 100-year~~
 1351 ~~probable maximum loss of the Florida Windstorm Underwriting~~
 1352 ~~Association. For purposes of this paragraph, the benchmark 100-~~
 1353 ~~year probable maximum loss of the Florida Windstorm Underwriting~~
 1354 ~~Association shall be the calculation dated February 2001 and~~
 1355 ~~based on November 30, 2000, exposures. In order to ensure~~
 1356 ~~comparability of data, the board shall use the same methods for~~
 1357 ~~calculating its probable maximum loss as were used to calculate~~
 1358 ~~the benchmark probable maximum loss.~~

1359 ~~2. Beginning December 1, 2010, if the report under~~
 1360 ~~subparagraph 1. for any year indicates that the 100-year~~
 1361 ~~probable maximum loss attributable to wind-only coverages and~~
 1362 ~~the quota share program combined does not reflect a reduction of~~
 1363 ~~at least 25 percent from the benchmark, the board shall reduce~~
 1364 ~~the boundaries of the high-risk area eligible for wind-only~~
 1365 ~~coverages under this subsection in a manner calculated to reduce~~
 1366 ~~such probable maximum loss to an amount at least 25 percent~~
 1367 ~~below the benchmark.~~

1368 ~~3. Beginning February 1, 2015, if the report under~~
 1369 ~~subparagraph 1. for any year indicates that the 100-year~~
 1370 ~~probable maximum loss attributable to wind-only coverages and~~
 1371 ~~the quota share program combined does not reflect a reduction of~~
 1372 ~~at least 50 percent from the benchmark, the boundaries of the~~

1373 ~~high risk area eligible for wind only coverages under this~~
 1374 ~~subsection shall be reduced by the elimination of any area that~~
 1375 ~~is not seaward of a line 1,000 feet inland from the Intracoastal~~
 1376 ~~Waterway.~~

1377 (aa) As a condition of eligibility for coverage by the
 1378 corporation, an applicant or insured of a property located in a
 1379 Special Flood Hazard Area, as defined by the National Flood
 1380 Insurance Program, must maintain in effect a separate flood
 1381 insurance policy having coverage limits for building and
 1382 contents at least equal to those provided under the
 1383 corporation's policy, subject to the maximum limits available
 1384 under the National Flood Insurance Program policy. This
 1385 requirement does not apply to an insured who is a tenant or a
 1386 condominium unit owner above the ground floor; a policy issued
 1387 by the corporation which excludes wind and hail coverage; a risk
 1388 that is not eligible for flood coverage under the National Flood
 1389 Insurance Program; or a mobile home that is located more than 2
 1390 miles from open water, including the ocean, the gulf, a bay, a
 1391 river, or the intracoastal waterway. This paragraph applies to
 1392 new policies issued by the corporation on or after January 1,
 1393 2012, and to policies renewed by the corporation on or after
 1394 January 1, 2013. The corporation shall not require the securing
 1395 ~~of flood insurance as a condition of coverage if the insured or~~
 1396 ~~applicant executes a form approved by the office affirming that~~
 1397 ~~flood insurance is not provided by the corporation and that if~~
 1398 ~~flood insurance is not secured by the applicant or insured in~~
 1399 ~~addition to coverage by the corporation, the risk will not be~~
 1400 ~~covered for flood damage. A corporation policyholder electing~~

1401 ~~not to secure flood insurance and executing a form as provided~~
 1402 ~~herein making a claim for water damage against the corporation~~
 1403 ~~shall have the burden of proving the damage was not caused by~~
 1404 ~~flooding. Notwithstanding other provisions of this subsection,~~
 1405 ~~the corporation may deny coverage to an applicant or insured who~~
 1406 ~~refuses to execute the form described herein.~~

1407 ~~(cc) The office may establish a pilot program to offer~~
 1408 ~~optional sinkhole coverage in one or more counties or other~~
 1409 ~~territories of the corporation for the purpose of implementing~~
 1410 ~~s. 627.706, as amended by s. 30, chapter 2007-1, Laws of~~
 1411 ~~Florida. Under the pilot program, the corporation is not~~
 1412 ~~required to issue a notice of nonrenewal to exclude sinkhole~~
 1413 ~~coverage upon the renewal of existing policies, but may exclude~~
 1414 ~~such coverage using a notice of coverage change.~~

1415 Section 2. Subsection (1) of section 627.712, Florida
 1416 Statutes, is amended to read:

1417 627.712 Residential windstorm coverage required;
 1418 availability of exclusions for windstorm or contents.—

1419 (1) An insurer issuing a residential property insurance
 1420 policy must provide windstorm coverage. Except as provided in
 1421 paragraph (2)(c), this section does not apply ~~with respect~~ to
 1422 risks that are eligible for wind-only coverage from Citizens
 1423 Property Insurance Corporation under s. 627.351(6), and ~~with~~
 1424 ~~respect~~ to risks that are not eligible for coverage from
 1425 Citizens Property Insurance Corporation under s. 627.351(6)(a)3.
 1426 or 4. 5. A risk ineligible for Citizens coverage under s.
 1427 627.351(6)(a)3. or 4. 5. is exempt from the requirements of this
 1428 section only if the risk is located within the boundaries of the

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1429 | high-risk account of the corporation.

1430 | Section 3. This act shall take effect upon becoming a law.