

1 A bill to be entitled

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

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

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

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Be It Enacted by the Legislature of the State of Florida:
 Section 1. Subsection (7) of section 627.351, Florida
 Statutes, is renumbered as subsection (8), paragraph (b) of
 subsection (2) and subsection (6) are amended, and a new

76 subsection (7) is added to that section, to read:

77 627.351 Insurance risk apportionment plans.—

78 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

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

100 1. For the purpose of this section, properties eligible

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

110 2.a.(I) All insurers required to be members of such
 111 association shall participate in its writings, expenses, and
 112 losses. Surplus of the association shall be retained for the
 113 payment of claims and shall not be distributed to the member
 114 insurers. Such participation by member insurers shall be in the
 115 proportion that the net direct premiums of each member insurer
 116 written for property insurance in this state during the
 117 preceding calendar year bear to the aggregate net direct
 118 premiums for property insurance of all member insurers, as
 119 reduced by any credits for voluntary writings, in this state
 120 during the preceding calendar year. For the purposes of this
 121 subsection, the term "net direct premiums" means direct written
 122 premiums for property insurance, reduced by premium for
 123 liability coverage and for the following if included in allied
 124 lines: rain and hail on growing crops; livestock; association
 125 direct premiums booked; National Flood Insurance Program direct

126 | premiums; and similar deductions specifically authorized by the
 127 | plan of operation and approved by the department. A member's
 128 | participation shall begin on the first day of the calendar year
 129 | following the year in which it is issued a certificate of
 130 | authority to transact property insurance in the state and shall
 131 | terminate 1 year after the end of the calendar year during which
 132 | it no longer holds a certificate of authority to transact
 133 | property insurance in the state. The commissioner, after review
 134 | of annual statements, other reports, and any other statistics
 135 | that the commissioner deems necessary, shall certify to the
 136 | association the aggregate direct premiums written for property
 137 | insurance in this state by all member insurers.

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

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

148 | (IV) A company which is a member of a group of companies
 149 | under common management may elect to have its credits applied on
 150 | a group basis, and any company or group may elect to have its

151 credits applied to any other company or group.

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

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

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

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

191 c. The Legislature finds that the potential for unlimited
 192 deficit assessments under this subparagraph may induce insurers
 193 to attempt to reduce their writings in the voluntary market, and
 194 that such actions would worsen the availability problems that
 195 the association was created to remedy. It is the intent of the
 196 Legislature that insurers remain fully responsible for paying
 197 regular assessments and collecting emergency assessments for any
 198 deficits of the association; however, it is also the intent of
 199 the Legislature to provide a means by which assessment
 200 liabilities may be amortized over a period of years.

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

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

216 (III) Upon a determination by the board of directors that
 217 a deficit exceeds the amount that will be recovered through
 218 regular assessments on member insurers, pursuant to sub-sub-
 219 subparagraph (I) or sub-sub-subparagraph (II), the board shall
 220 levy, after verification by the department, emergency
 221 assessments to be collected by member insurers and by
 222 underwriting associations created pursuant to this section which
 223 write property insurance, upon issuance or renewal of property
 224 insurance policies other than National Flood Insurance policies
 225 in the year or years following levy of the regular assessments.

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

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

267 | (IV) Each member insurer's share of the total regular
 268 | assessments under sub-sub-subparagraph (I) or sub-sub-
 269 | subparagraph (II) shall be in the proportion that the insurer's
 270 | net direct premium for property insurance in this state, for the
 271 | year preceding the assessment bears to the aggregate statewide
 272 | net direct premium for property insurance of all member
 273 | insurers, as reduced by any credits for voluntary writings for
 274 | that year.

275 | (V) If regular deficit assessments are made under sub-sub-

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

289 e. The governing body of any unit of local government, any
 290 residents of which are insured under the plan, may issue bonds
 291 as defined in s. 125.013 or s. 166.101 to fund an assistance
 292 program, in conjunction with the association, for the purpose of
 293 defraying deficits of the association. In order to avoid
 294 needless and indiscriminate proliferation, duplication, and
 295 fragmentation of such assistance programs, any unit of local
 296 government, any residents of which are insured by the
 297 association, may provide for the payment of losses, regardless
 298 of whether or not the losses occurred within or outside of the
 299 territorial jurisdiction of the local government. Revenue bonds
 300 may not be issued until validated pursuant to chapter 75, unless

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

326 the bond issue that equals the insurer's relative share of
 327 assessment liability under this subsection. An insurer shall not
 328 be required to purchase the bonds to the extent that the
 329 department determines that the purchase would endanger or impair
 330 the solvency of the insurer. The authority granted by this sub-
 331 subparagraph is additional to any bonding authority granted by
 332 subparagraph 6.

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

351 appportionment company, the department may direct that all or
 352 part of such assessment be deferred. However, there shall be no
 353 limitation or deferment of an emergency assessment to be
 354 collected from policyholders under sub-sub-subparagraph
 355 2.d.(III).

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

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

372 b. It is the intent of the Legislature that the rates for
 373 coverage provided by the association be actuarially sound and
 374 not competitive with approved rates charged in the admitted
 375 voluntary market such that the association functions as a

376 residual market mechanism to provide insurance only when the
377 insurance cannot be procured in the voluntary market. The plan
378 of operation shall provide a mechanism to assure that, beginning
379 no later than January 1, 1999, the rates charged by the
380 association for each line of business are reflective of approved
381 rates in the voluntary market for hurricane coverage for each
382 line of business in the various areas eligible for association
383 coverage.

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

399 d. The plan of operation must provide objective criteria
400 and procedures, approved by the department, to be uniformly

401 applied for all applicants in determining whether an individual
 402 risk is so hazardous as to be uninsurable. In making this
 403 determination and in establishing the criteria and procedures,
 404 the following shall be considered:

405 (I) Whether the likelihood of a loss for the individual
 406 risk is substantially higher than for other risks of the same
 407 class; and

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

411
 412 The acceptance or rejection of a risk by the association
 413 pursuant to such criteria and procedures must be construed as
 414 the private placement of insurance, and the provisions of
 415 chapter 120 do not apply.

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

423 (I) Pay to the producing agent of record of the policy,
 424 for the first year, an amount that is the greater of the
 425 insurer's usual and customary commission for the type of policy

426 written or a fee equal to the usual and customary commission of
427 the association; or

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

433

434 If the producing agent is unwilling or unable to accept
435 appointment, the new insurer shall pay the agent in accordance
436 with sub-sub-subparagraph (I). Subject to the provisions of s.
437 627.3517, the policies issued by the association must provide
438 that if the association obtains an offer from an authorized
439 insurer to cover the risk at its approved rates under either a
440 standard policy including wind coverage or, if consistent with
441 the insurer's underwriting rules as filed with the department, a
442 basic policy including wind coverage, the risk is no longer
443 eligible for coverage through the association. Upon termination
444 of eligibility, the association shall provide written notice to
445 the policyholder and agent of record stating that the
446 association policy must be canceled as of 60 days after the date
447 of the notice because of the offer of coverage from an
448 authorized insurer. Other provisions of the insurance code
449 relating to cancellation and notice of cancellation do not apply
450 to actions under this sub-subparagraph.

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

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

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

465
 466 If the producing agent is unwilling or unable to accept
 467 appointment, the new insurer shall pay the agent in accordance
 468 with sub-sub-subparagraph (I).

469 6.a. The plan of operation may authorize the formation of
 470 a private nonprofit corporation, a private nonprofit
 471 unincorporated association, a partnership, a trust, a limited
 472 liability company, or a nonprofit mutual company which may be
 473 empowered, among other things, to borrow money by issuing bonds
 474 or by incurring other indebtedness and to accumulate reserves or
 475 funds to be used for the payment of insured catastrophe losses.

476 The plan may authorize all actions necessary to facilitate the
 477 issuance of bonds, including the pledging of assessments or
 478 other revenues.

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

501 shall incorporate and continue the plan of operation and
 502 articles of agreement in effect on the effective date of chapter
 503 76-96, Laws of Florida, to the extent that it is not
 504 inconsistent with chapter 76-96, and as subsequently modified
 505 consistent with chapter 76-96. The board of directors and
 506 officers currently serving shall continue to serve until their
 507 successors are duly qualified as provided under the plan. The
 508 assets and obligations of the plan in effect immediately prior
 509 to the effective date of chapter 76-96 shall be construed to be
 510 the assets and obligations of the successor plan created herein.

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

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

524 8. Subject to approval by the department, the association
 525 may establish different eligibility requirements and operational

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

540 | 9. Notwithstanding any other provision of law:

541 | a. The pledge or sale of, the lien upon, and the security
 542 | interest in any rights, revenues, or other assets of the
 543 | association created or purported to be created pursuant to any
 544 | financing documents to secure any bonds or other indebtedness of
 545 | the association shall be and remain valid and enforceable,
 546 | notwithstanding the commencement of and during the continuation
 547 | of, and after, any rehabilitation, insolvency, liquidation,
 548 | bankruptcy, receivership, conservatorship, reorganization, or
 549 | similar proceeding against the association under the laws of
 550 | this state or any other applicable laws.

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

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

567 d. As used in this subsection, the term "financing
 568 documents" means any agreement, instrument, or other document
 569 now existing or hereafter created evidencing any bonds or other
 570 indebtedness of the association or pursuant to which any such
 571 bonds or other indebtedness has been or may be issued and
 572 pursuant to which any rights, revenues, or other assets of the
 573 association are pledged or sold to secure the repayment of such
 574 bonds or indebtedness, together with the payment of interest on
 575 such bonds or such indebtedness, or the payment of any other

576 obligation of the association related to such bonds or
 577 indebtedness.

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

595 f. There shall be no liability on the part of, and no
 596 cause of action of any nature shall arise against, any member
 597 insurer or its agents or employees, agents or employees of the
 598 association, members of the board of directors of the
 599 association, or the department or its representatives, for any
 600 action taken by them in the performance of their duties or

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

604 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

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

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

643 | 2. The Residential Property and Casualty Joint
 644 | Underwriting Association originally created by this statute
 645 | shall be known as the Citizens Property Insurance Corporation.
 646 | The corporation shall provide insurance for residential and
 647 | commercial property, for applicants who are entitled, but, in
 648 | good faith, are unable to procure insurance through the
 649 | voluntary market. The corporation shall operate pursuant to a
 650 | plan of operation approved by order of the Financial Services

651 Commission. The plan is subject to continuous review by the
 652 commission. The commission may, by order, withdraw approval of
 653 all or part of a plan if the commission determines that
 654 conditions have changed since approval was granted and that the
 655 purposes of the plan require changes in the plan. For the
 656 purposes of this subsection, residential coverage includes both
 657 personal lines residential coverage, which consists of the type
 658 of coverage provided by homeowner, mobile home owner, dwelling,
 659 tenant, condominium unit owner, and similar policies; and
 660 commercial lines residential coverage, which consists of the
 661 type of coverage provided by condominium association, apartment
 662 building, and similar policies.

663 3. With respect to coverage for personal lines residential
 664 structures:

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

676 ~~such policyholder files a lawsuit challenging the determination,~~
 677 ~~the policyholder may remain insured by the corporation until the~~
 678 ~~conclusion of the litigation.~~

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

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

693 ~~d. Except in the counties in which the office determines~~
 694 ~~there is not a reasonable degree of competition, effective~~
 695 ~~January 1, 2025 2017, a structure that has a dwelling~~
 696 ~~replacement cost of \$1 million ~~\$700,000~~ or more, or a single~~
 697 ~~condominium unit that has a combined dwelling and contents~~
 698 ~~replacement cost of \$1 million ~~\$700,000~~ or more, is not eligible~~
 699 ~~for coverage by the corporation. Such dwellings insured by the~~
 700 ~~corporation on December 31, 2016, may continue to be covered by~~

701 ~~the corporation until the end of the policy term.~~

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

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

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

726 | comply with this sub-subparagraph if it has shutters or opening
 727 | protections on all openings and if such opening protections
 728 | complied with the Florida Building Code at the time they were
 729 | installed.

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

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

744 | (b)1. All insurers authorized to write one or more subject
 745 | lines of business in this state are subject to assessment by the
 746 | corporation and, for the purposes of this subsection, are
 747 | referred to collectively as "assessable insurers." Insurers
 748 | writing one or more subject lines of business in this state
 749 | pursuant to part VIII of chapter 626 are not assessable
 750 | insurers; however, insureds who procure one or more subject

751 lines of business in this state pursuant to part VIII of chapter
 752 626 are subject to assessment by the corporation and are
 753 referred to collectively as "assessable insureds." An insurer's
 754 assessment liability begins on the first day of the calendar
 755 year following the year in which the insurer was issued a
 756 certificate of authority to transact insurance for subject lines
 757 of business in this state and terminates 1 year after the end of
 758 the first calendar year during which the insurer no longer holds
 759 a certificate of authority to transact insurance for subject
 760 lines of business in this state.

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

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

772 ~~b.(II)~~ ~~A commercial lines account for~~ Commercial
 773 residential and commercial nonresidential policies that provide
 774 ~~issued by the corporation which provides~~ coverage for basic
 775 property perils on risks that are not located in areas eligible

776 for coverage by the Florida Windstorm Underwriting Association
 777 as those areas were defined on January 1, 2002, and for policies
 778 that do not provide coverage for the peril of wind on risks that
 779 are located in such areas; and

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

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

821 (I) Personal residential policies and commercial
 822 residential and commercial nonresidential property policies that
 823 provide coverage for the peril of wind on risks that are located
 824 in areas eligible for coverage by the Florida Windstorm
 825 Underwriting Association, as those areas were defined on January

826 1, 2002;

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

832 (III) Commercial residential wind-only policies;

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

835 (V) Commercial residential multiperil policies on a
 836 building that was insured by the corporation on June 30, 2014 ~~It~~
 837 ~~is the goal of the Legislature that there be an overall average~~
 838 ~~savings of 10 percent or more for a policyholder who currently~~
 839 ~~has a wind-only policy with the corporation, and an ex-wind~~
 840 ~~policy with a voluntary insurer or the corporation, and who~~
 841 ~~obtains a multiperil policy from the corporation. It is the~~
 842 ~~intent of the Legislature that the offer of multiperil coverage~~
 843 ~~in the coastal account be made and implemented in a manner that~~
 844 ~~does not adversely affect the tax-exempt status of the~~
 845 ~~corporation or creditworthiness of or security for currently~~
 846 ~~outstanding financing obligations or credit facilities of the~~
 847 ~~coastal account, the personal lines account, or the commercial~~
 848 ~~lines account. The coastal account must also include quota share~~
 849 ~~primary insurance under subparagraph (c)2.~~

850

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

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

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

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

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

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

872 ~~b. The three separate accounts must be maintained as long~~
 873 ~~as financing obligations entered into by the Florida Windstorm~~
 874 ~~Underwriting Association or Residential Property and Casualty~~
 875 ~~Joint Underwriting Association are outstanding, in accordance~~

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

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

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

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

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

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

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

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

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

924 ~~(II) Exceeds 2 percent of the aggregate statewide direct~~
 925 ~~written premium for the subject lines of business for the prior~~

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

934 ~~b. Each assessable insurer's share of the amount being~~
 935 ~~assessed under sub-subparagraph a. must be in the proportion~~
 936 ~~that the assessable insurer's direct written premium for the~~
 937 ~~subject lines of business for the year preceding the assessment~~
 938 ~~bears to the aggregate statewide direct written premium for the~~
 939 ~~subject lines of business for that year. The assessment~~
 940 ~~percentage applicable to each assessable insured is the ratio of~~
 941 ~~the amount being assessed under sub-subparagraph a. to the~~
 942 ~~aggregate statewide direct written premium for the subject lines~~
 943 ~~of business for the prior year. Assessments levied by the~~
 944 ~~corporation on assessable insurers under sub-subparagraph a.~~
 945 ~~must be paid as required by the corporation's plan of operation~~
 946 ~~and paragraph (q). Assessments levied by the corporation on~~
 947 ~~assessable insureds under sub-subparagraph a. shall be collected~~
 948 ~~by the surplus lines agent at the time the surplus lines agent~~
 949 ~~collects the surplus lines tax required by s. 626.932, and paid~~
 950 ~~to the Florida Surplus Lines Service Office at the time the~~

951 ~~surplus lines agent pays the surplus lines tax to that office.~~
 952 ~~Upon receipt of regular assessments from surplus lines agents,~~
 953 ~~the Florida Surplus Lines Service Office shall transfer the~~
 954 ~~assessments directly to the corporation as determined by the~~
 955 ~~corporation.~~

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

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

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

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

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

1018 d.f. The corporation may pledge the proceeds of
 1019 assessments, projected recoveries from the Florida Hurricane
 1020 Catastrophe Fund, other insurance and reinsurance recoverables,
 1021 policyholder surcharges and other surcharges, and other funds
 1022 available to the corporation as the source of revenue for and to
 1023 secure bonds issued under paragraph (q), bonds or other
 1024 indebtedness issued under subparagraph (c)3., or lines of credit
 1025 or other financing mechanisms issued or created under this

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

1046 ~~e.g.~~ As used in this subsection and for purposes of any
 1047 deficit incurred on or after January 25, 2007, the term "subject
 1048 lines of business" means insurance written by assessable
 1049 insurers or procured by assessable insureds for all property and
 1050 casualty lines of business in this state, but not including

1051 workers' compensation or medical malpractice. As used in this
 1052 sub-subparagraph, the term "property and casualty lines of
 1053 business" includes all lines of business identified on Form 2,
 1054 Exhibit of Premiums and Losses, in the annual statement required
 1055 of authorized insurers under s. 624.424 and any rule adopted
 1056 under this section, except for those lines identified as
 1057 accident and health insurance and except for policies written
 1058 under the National Flood Insurance Program or the Federal Crop
 1059 Insurance Program. For purposes of this sub-subparagraph, the
 1060 term "workers' compensation" includes both workers' compensation
 1061 insurance and excess workers' compensation insurance.

1062 f.h. The Florida Surplus Lines Service Office shall
 1063 annually determine ~~annually~~ the aggregate statewide written
 1064 premium in subject lines of business procured by assessable
 1065 insureds and report that information to the corporation in a
 1066 form and at a time the corporation specifies to ensure that the
 1067 corporation can meet the requirements of this subsection and the
 1068 corporation's financing obligations.

1069 g.i. The Florida Surplus Lines Service Office shall verify
 1070 the proper application by surplus lines agents of assessment
 1071 percentages for ~~regular assessments and~~ emergency assessments
 1072 levied under this subparagraph on assessable insureds and assist
 1073 the corporation in ensuring the accurate, timely collection and
 1074 payment of assessments by surplus lines agents as required by
 1075 the corporation.

1076 ~~j. Upon determination by the board of governors that an~~
 1077 ~~account has a projected deficit, the board shall levy a Citizens~~
 1078 ~~policyholder surcharge against all policyholders of the~~
 1079 ~~corporation.~~

1080 ~~(I) The surcharge shall be levied as a uniform percentage~~
 1081 ~~of the premium for the policy of up to 15 percent of such~~
 1082 ~~premium, which funds shall be used to offset the deficit.~~

1083 ~~(II) The surcharge is payable upon cancellation or~~
 1084 ~~termination of the policy, upon renewal of the policy, or upon~~
 1085 ~~issuance of a new policy by the corporation within the first 12~~
 1086 ~~months after the date of the levy or the period of time~~
 1087 ~~necessary to fully collect the surcharge amount.~~

1088 ~~(III) The corporation may not levy any regular assessments~~
 1089 ~~under paragraph (q) pursuant to sub-subparagraph a. or sub-~~
 1090 ~~subparagraph b. with respect to a particular year's deficit~~
 1091 ~~until the corporation has first levied the full amount of the~~
 1092 ~~surcharge authorized by this sub-subparagraph.~~

1093 ~~(IV) The surcharge is not considered premium and is not~~
 1094 ~~subject to commissions, fees, or premium taxes. However, failure~~
 1095 ~~to pay the surcharge shall be treated as failure to pay premium.~~

1096 h.k. If the amount of any assessments or surcharges
 1097 collected from corporation policyholders, assessable insurers or
 1098 their policyholders, or assessable insureds exceeds the amount
 1099 of the deficits, such excess amounts shall be remitted to and
 1100 retained by the corporation in a reserve to be used by the

1101 corporation, as determined by the board of governors and
 1102 approved by the office, to pay claims or reduce any past,
 1103 present, or future plan-year deficits or to reduce outstanding
 1104 debt.

1105 ~~4. The Citizens account, if established by the corporation~~
 1106 ~~pursuant to sub-subparagraph 2.b., is authorized to provide:~~

1107 ~~a. Personal residential policies that provide~~
 1108 ~~comprehensive, multiperil coverage on risks that are not located~~
 1109 ~~in areas eligible for coverage by the Florida Windstorm~~
 1110 ~~Underwriting Association, as those areas were defined on January~~
 1111 ~~1, 2002, and for policies that do not provide coverage for the~~
 1112 ~~peril of wind on risks that are located in such areas;~~

1113 ~~b. Commercial residential and commercial nonresidential~~
 1114 ~~policies that provide coverage for basic property perils on~~
 1115 ~~risks that are not located in areas eligible for coverage by the~~
 1116 ~~Florida Windstorm Underwriting Association, as those areas were~~
 1117 ~~defined on January 1, 2002, and for policies that do not provide~~
 1118 ~~coverage for the peril of wind on risks that are located in such~~
 1119 ~~areas; and~~

1120 ~~e. Personal residential policies and commercial~~
 1121 ~~residential and commercial nonresidential property policies that~~
 1122 ~~provide coverage for the peril of wind on risks that are located~~
 1123 ~~in areas eligible for coverage by the Florida Windstorm~~
 1124 ~~Underwriting Association, as those areas were defined on January~~
 1125 ~~1, 2002. The corporation may offer policies that provide~~

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

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

1176 ~~5. With respect to a deficit in the Citizens account:~~

1177 ~~a. Upon a determination by the board of governors that the~~

1178 ~~Citizens account has a projected deficit, the board shall levy a~~

1179 ~~Citizens policyholder surcharge against all policyholders of the~~

1180 ~~corporation.~~

1181 ~~(I) The surcharge shall be levied as a uniform percentage~~

1182 ~~of the premium for the policy of up to 15 percent of such~~

1183 ~~premium, which funds shall be used to offset the deficit.~~

1184 ~~(II) The surcharge is payable upon cancellation or~~

1185 ~~termination of the policy, upon renewal of the policy, or upon~~

1186 ~~issuance of a new policy by the corporation within the first 12~~

1187 ~~months after the date of the levy or the period of time~~

1188 ~~necessary to fully collect the surcharge amount.~~

1189 ~~(III) The surcharge is not considered premium and is not~~

1190 ~~subject to commissions, fees, or premium taxes. However, failure~~

1191 ~~to pay the surcharge shall be treated as failure to pay premium.~~

1192 ~~b. After accounting for the Citizens policyholder~~

1193 ~~surcharge imposed under sub-subparagraph a., the remaining~~

1194 ~~projected deficit incurred in the Citizens account in a~~

1195 ~~particular calendar year shall be recovered through emergency~~

1196 ~~assessments under sub-subparagraph c.~~

1197 ~~e. Upon a determination by the board of governors that a~~

1198 ~~projected deficit in the Citizens account exceeds the amount~~

1199 ~~that is expected to be recovered through surcharges under sub-~~

1200 ~~subparagraph a., the board, after verification by the office,~~

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

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

1241 ~~d. The corporation may pledge the proceeds of assessments,~~
 1242 ~~projected recoveries from the Florida Hurricane Catastrophe~~
 1243 ~~Fund, other insurance and reinsurance recoverables, policyholder~~
 1244 ~~surcharges and other surcharges, and other funds available to~~
 1245 ~~the corporation as the source of revenue for and to secure bonds~~
 1246 ~~issued under paragraph (q), bonds or other indebtedness issued~~
 1247 ~~under subparagraph (c)3., or lines of credit or other financing~~
 1248 ~~mechanisms issued or created under this subsection; or to retire~~
 1249 ~~any other debt incurred as a result of deficits or events giving~~
 1250 ~~rise to deficits, or in any other way that the board determines~~

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

1267 ~~e. As used in this subsection and for purposes of any~~
 1268 ~~deficit incurred on or after January 25, 2007, the term "subject~~
 1269 ~~lines of business" means insurance written by assessable~~
 1270 ~~insurers or procured by assessable insureds for all property and~~
 1271 ~~casualty lines of business in this state, but not including~~
 1272 ~~workers' compensation or medical malpractice. As used in this~~
 1273 ~~sub-subparagraph, the term "property and casualty lines of~~
 1274 ~~business" includes all lines of business identified on Form 2,~~
 1275 ~~Exhibit of Premiums and Losses, in the annual statement required~~

1276 ~~of authorized insurers under s. 624.424 and any rule adopted~~
1277 ~~under this section, except for those lines identified as~~
1278 ~~accident and health insurance and except for policies written~~
1279 ~~under the National Flood Insurance Program or the Federal Crop~~
1280 ~~Insurance Program. For purposes of this sub-subparagraph, the~~
1281 ~~term "workers' compensation" includes both workers' compensation~~
1282 ~~insurance and excess workers' compensation insurance.~~

1283 ~~f. The Florida Surplus Lines Service Office shall annually~~
1284 ~~determine the aggregate statewide written premium in subject~~
1285 ~~lines of business procured by assessable insureds and report~~
1286 ~~that information to the corporation in a form and at a time the~~
1287 ~~corporation specifies to ensure that the corporation can meet~~
1288 ~~the requirements of this subsection and the corporation's~~
1289 ~~financing obligations.~~

1290 ~~g. The Florida Surplus Lines Service Office shall verify~~
1291 ~~the proper application by surplus lines agents of assessment~~
1292 ~~percentages for emergency assessments levied under this~~
1293 ~~subparagraph on assessable insureds and assist the corporation~~
1294 ~~in ensuring the accurate, timely collection and payment of~~
1295 ~~assessments by surplus lines agents as required by the~~
1296 ~~corporation.~~

1297 ~~h. If the amount of any assessments or surcharges~~
1298 ~~collected from corporation policyholders, assessable insurers or~~
1299 ~~their policyholders, or assessable insureds exceeds the amount~~
1300 ~~of the deficits, such excess amounts shall be remitted to and~~

1301 ~~retained by the corporation in a reserve to be used by the~~
 1302 ~~corporation, as determined by the board of governors and~~
 1303 ~~approved by the office, to pay claims or reduce any past,~~
 1304 ~~present, or future plan-year deficits or to reduce outstanding~~
 1305 ~~debt.~~

1306 (c) The corporation's plan of operation:

1307 1. Must provide for adoption of residential property and
 1308 casualty insurance policy forms and commercial residential and
 1309 nonresidential property insurance forms, which must be approved
 1310 by the office before use. The corporation shall adopt the
 1311 following policy forms:

1312 a. Standard personal lines policy forms that are
 1313 comprehensive multiperil policies providing full coverage of a
 1314 residential property equivalent to the coverage provided in the
 1315 private insurance market under an HO-3, HO-4, or HO-6 policy.

1316 b. Basic personal lines policy forms that are policies
 1317 similar to an HO-8 policy or a dwelling fire policy that provide
 1318 coverage meeting the requirements of the secondary mortgage
 1319 market, but which is more limited than the coverage under a
 1320 standard policy.

1321 c. Commercial lines residential and nonresidential policy
 1322 forms that are generally similar to the basic perils of full
 1323 coverage obtainable for commercial residential structures and
 1324 commercial nonresidential structures in the admitted voluntary
 1325 market.

1326 d. Personal lines and commercial lines residential
 1327 property insurance forms that cover the peril of wind only. The
 1328 forms are applicable only to residential properties located in
 1329 areas eligible for coverage by the Florida Windstorm
 1330 Underwriting Association, as those areas were defined on January
 1331 1, 2002.

1332 e. Commercial lines nonresidential property insurance
 1333 forms that cover the peril of wind only. The forms are
 1334 applicable only to nonresidential properties located in areas
 1335 eligible for coverage by the Florida Windstorm Underwriting
 1336 Association, as those areas were defined on January 1, 2002.

1337 f. The corporation may adopt variations of the policy
 1338 forms listed in sub-subparagraphs a.-e. which contain more
 1339 restrictive coverage.

1340 g. The corporation shall offer a basic personal lines
 1341 policy similar to an HO-8 policy with dwelling repair based on
 1342 common construction materials and methods.

1343 2. Must provide that the corporation adopt a program in
 1344 which the corporation and authorized insurers enter into quota
 1345 share primary insurance agreements for hurricane coverage, as
 1346 defined in s. 627.4025(2)(a), for eligible risks, and adopt
 1347 property insurance forms for eligible risks which cover the
 1348 peril of wind only.

1349 a. As used in this subsection, the term:

1350 (I) "Approved rate" means:

1351 (A) With respect to an authorized insurer that holds a
 1352 certificate of authority, such insurer's filed and approved
 1353 rate.

1354 (B) With respect to an authorized insurer that is an
 1355 eligible surplus lines insurer, the rate approved by the office
 1356 as part of such insurer's take-out plan.

1357 (II) "Authorized insurer" means:

1358 (A) An insurer holding a certificate of authority; or

1359 (B) An eligible surplus lines insurer that is rated "A-"
 1360 or higher by A.M. Best Company and whose Florida personal lines
 1361 residential risk or commercial lines residential risk program is
 1362 managed by a Florida resident surplus lines broker.

1363 (IV) "Primary residence" means the dwelling that is the
 1364 policyholder's primary home or is a rental property that is the
 1365 primary home of the tenant, and which the policyholder or tenant
 1366 occupies for more than 9 months of each year.

1367 (V)-(I) "Quota share primary insurance" means an
 1368 arrangement in which the primary hurricane coverage of an
 1369 eligible risk is provided in specified percentages by the
 1370 corporation and an authorized insurer. The corporation and
 1371 authorized insurer are each solely responsible for a specified
 1372 percentage of hurricane coverage of an eligible risk as set
 1373 forth in a quota share primary insurance agreement between the
 1374 corporation and an authorized insurer and the insurance
 1375 contract. The responsibility of the corporation or authorized

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

1388 (III) ~~(II)~~ "Eligible risks" means personal lines
 1389 residential and commercial lines residential risks that meet the
 1390 underwriting criteria of the corporation and are located in
 1391 areas that were eligible for coverage by the Florida Windstorm
 1392 Underwriting Association on January 1, 2002.

1393 b. The corporation may enter into quota share primary
 1394 insurance agreements with authorized insurers at corporation
 1395 coverage levels of 90 percent and 50 percent.

1396 c. If the corporation determines that additional coverage
 1397 levels are necessary to maximize participation in quota share
 1398 primary insurance agreements by authorized insurers, the
 1399 corporation may establish additional coverage levels. However,
 1400 the corporation's quota share primary insurance coverage level

1401 may not exceed 90 percent.

1402 d. Any quota share primary insurance agreement entered
 1403 into between an authorized insurer and the corporation must
 1404 provide for a uniform specified percentage of coverage of
 1405 hurricane losses, by county or territory as set forth by the
 1406 corporation board, for all eligible risks of the authorized
 1407 insurer covered under the agreement.

1408 e. Any quota share primary insurance agreement entered
 1409 into between an authorized insurer and the corporation is
 1410 subject to review and approval by the office. However, such
 1411 agreement shall be authorized only as to insurance contracts
 1412 entered into between an authorized insurer and an insured who is
 1413 already insured by the corporation for wind coverage.

1414 f. For all eligible risks covered under quota share
 1415 primary insurance agreements, the exposure and coverage levels
 1416 for both the corporation and authorized insurers shall be
 1417 reported by the corporation to the Florida Hurricane Catastrophe
 1418 Fund. For all policies of eligible risks covered under such
 1419 agreements, the corporation and the authorized insurer must
 1420 maintain complete and accurate records for the purpose of
 1421 exposure and loss reimbursement audits as required by fund
 1422 rules. The corporation and the authorized insurer shall each
 1423 maintain duplicate copies of policy declaration pages and
 1424 supporting claims documents.

1425 g. The corporation board shall establish in its plan of

1426 operation standards for quota share agreements which ensure that
 1427 there is no discriminatory application among insurers as to the
 1428 terms of the agreements, pricing of the agreements, incentive
 1429 provisions if any, and consideration paid for servicing policies
 1430 or adjusting claims.

1431 h. The quota share primary insurance agreement between the
 1432 corporation and an authorized insurer must set forth the
 1433 specific terms under which coverage is provided, including, but
 1434 not limited to, the sale and servicing of policies issued under
 1435 the agreement by the insurance agent of the authorized insurer
 1436 producing the business, the reporting of information concerning
 1437 eligible risks, the payment of premium to the corporation, and
 1438 arrangements for the adjustment and payment of hurricane claims
 1439 incurred on eligible risks by the claims adjuster and personnel
 1440 of the authorized insurer. Entering into a quota sharing
 1441 insurance agreement between the corporation and an authorized
 1442 insurer is voluntary and at the discretion of the authorized
 1443 insurer.

1444 3. May provide that the corporation may employ or
 1445 otherwise contract with individuals or other entities to provide
 1446 administrative or professional services that may be appropriate
 1447 to effectuate the plan. The corporation may borrow funds by
 1448 issuing bonds or by incurring other indebtedness, and shall have
 1449 other powers reasonably necessary to effectuate the requirements
 1450 of this subsection, including, without limitation, the power to

1451 issue bonds and incur other indebtedness in order to refinance
 1452 outstanding bonds or other indebtedness. The corporation may
 1453 seek judicial validation of its bonds or other indebtedness
 1454 under chapter 75. The corporation may issue bonds or incur other
 1455 indebtedness, or have bonds issued on its behalf by a unit of
 1456 local government pursuant to subparagraph (q)2. in the absence
 1457 of a hurricane or other weather-related event, upon a
 1458 determination by the corporation, subject to approval by the
 1459 office, that such action would enable it to efficiently meet the
 1460 financial obligations of the corporation and that such
 1461 financings are reasonably necessary to effectuate the
 1462 requirements of this subsection. The corporation may take all
 1463 actions needed to facilitate tax-free status for such bonds or
 1464 indebtedness, including formation of trusts or other affiliated
 1465 entities. The corporation may pledge assessments, projected
 1466 recoveries from the Florida Hurricane Catastrophe Fund, other
 1467 reinsurance recoverables, policyholder surcharges and other
 1468 surcharges, and other funds available to the corporation as
 1469 security for bonds or other indebtedness. In recognition of s.
 1470 10, Art. I of the State Constitution, prohibiting the impairment
 1471 of obligations of contracts, it is the intent of the Legislature
 1472 that no action be taken whose purpose is to impair any bond
 1473 indenture or financing agreement or any revenue source committed
 1474 by contract to such bond or other indebtedness.

1475 4. Must require that the corporation operate subject to

1476 the supervision and approval of a board of governors consisting
1477 of nine individuals who are residents of this state and who are
1478 from different geographical areas of the state, one of whom is
1479 appointed by the Governor and serves solely to advocate on
1480 behalf of the consumer. The appointment of a consumer
1481 representative by the Governor is deemed to be within the scope
1482 of the exemption provided in s. 112.313(7) (b) and is in addition
1483 to the appointments authorized under sub-subparagraph a.

1484 a. The Governor, the Chief Financial Officer, the
1485 President of the Senate, and the Speaker of the House of
1486 Representatives shall each appoint two members of the board. At
1487 least one of the two members appointed by each appointing
1488 officer must have demonstrated expertise in insurance and be
1489 deemed to be within the scope of the exemption provided in s.
1490 112.313(7) (b). The Chief Financial Officer shall designate one
1491 of the appointees as chair. All board members serve at the
1492 pleasure of the appointing officer. All members of the board are
1493 subject to removal at will by the officers who appointed them.
1494 All board members, including the chair, must be appointed to
1495 serve for 3-year terms beginning annually on a date designated
1496 by the plan. However, for the first term beginning on or after
1497 July 1, 2009, each appointing officer shall appoint one member
1498 of the board for a 2-year term and one member for a 3-year term.
1499 A board vacancy shall be filled for the unexpired term by the
1500 appointing officer. The Chief Financial Officer shall appoint a

1501 technical advisory group to provide information and advice to
 1502 the board in connection with the board's duties under this
 1503 subsection. The executive director and senior managers of the
 1504 corporation shall be engaged by the board and serve at the
 1505 pleasure of the board. Any executive director appointed on or
 1506 after July 1, 2006, is subject to confirmation by the Senate.
 1507 The executive director is responsible for employing other staff
 1508 as the corporation may require, subject to review and
 1509 concurrence by the board.

1510 b. The board shall create a Market Accountability Advisory
 1511 Committee to assist the corporation in developing awareness of
 1512 its rates and its customer and agent service levels in
 1513 relationship to the voluntary market insurers writing similar
 1514 coverage.

1515 (I) The members of the advisory committee consist of the
 1516 following 11 persons, one of whom must be elected chair by the
 1517 members of the committee: four representatives, one appointed by
 1518 the Florida Association of Insurance Agents, one by the Florida
 1519 Association of Insurance and Financial Advisors, one by the
 1520 Professional Insurance Agents of Florida, and one by the Latin
 1521 American Association of Insurance Agencies; three
 1522 representatives appointed by the insurers with the three highest
 1523 voluntary market share of residential property insurance
 1524 business in the state; one representative from the Office of
 1525 Insurance Regulation; one consumer appointed by the board who is

1526 insured by the corporation at the time of appointment to the
 1527 committee; one representative appointed by the Florida
 1528 Association of Realtors; and one representative appointed by the
 1529 Florida Bankers Association. All members shall be appointed to
 1530 3-year terms and may serve for consecutive terms.

1531 (II) The committee shall report to the corporation at each
 1532 board meeting on insurance market issues which may include rates
 1533 and rate competition with the voluntary market; service,
 1534 including policy issuance, claims processing, and general
 1535 responsiveness to policyholders, applicants, and agents; and
 1536 matters relating to depopulation.

1537 5. Must provide a procedure for determining the
 1538 eligibility of a risk for coverage, as follows:

1539 a. Subject to s. 627.3517, with respect to personal lines
 1540 residential risks, if the risk is offered coverage from an
 1541 authorized insurer at the insurer's approved rate under a
 1542 standard policy including wind coverage or, if consistent with
 1543 the insurer's underwriting rules as filed with the office, a
 1544 basic policy including wind coverage, for a new application to
 1545 the corporation for coverage, the risk is not eligible for any
 1546 policy issued by the corporation unless the premium for coverage
 1547 from the authorized insurer is more than 20 percent greater than
 1548 the premium for comparable coverage from the corporation.
 1549 Whenever an offer of coverage for a personal lines residential
 1550 risk is received for a policyholder of the corporation at

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

1576 policy that does not cover a primary residence.

1577 (I) If the risk accepts an offer of coverage through the
 1578 market assistance plan or through a mechanism established by the
 1579 corporation other than a plan established by s. 627.3518, before
 1580 a policy is issued to the risk by the corporation or during the
 1581 first 30 days of coverage by the corporation, and the producing
 1582 agent who submitted the application to the plan or to the
 1583 corporation is not currently appointed by the insurer, the
 1584 insurer shall:

1585 (A) Pay to the producing agent of record of the policy for
 1586 the first year, an amount that is the greater of the insurer's
 1587 usual and customary commission for the type of policy written or
 1588 a fee equal to the usual and customary commission of the
 1589 corporation; or

1590 (B) Offer to allow the producing agent of record of the
 1591 policy to continue servicing the policy for at least 1 year and
 1592 offer to pay the agent the greater of the insurer's or the
 1593 corporation's usual and customary commission for the type of
 1594 policy written.

1595
 1596 If the producing agent is unwilling or unable to accept
 1597 appointment for any reason, including the failure of such agent
 1598 to be licensed as a surplus lines agent, the new insurer shall
 1599 pay the agent in accordance with sub-sub-sub-subparagraph (A).

1600 (II) If the corporation enters into a contractual

1601 agreement for a take-out plan, the producing agent of record of
 1602 the corporation policy is entitled to retain any unearned
 1603 commission on the policy, and the insurer shall:

1604 (A) Pay to the producing agent of record, for the first
 1605 year, an amount that is the greater of the insurer's usual and
 1606 customary commission for the type of policy written or a fee
 1607 equal to the usual and customary commission of the corporation;
 1608 or

1609 (B) Offer to allow the producing agent of record to
 1610 continue servicing the policy for at least 1 year and offer to
 1611 pay the agent the greater of the insurer's or the corporation's
 1612 usual and customary commission for the type of policy written.

1613
 1614 If the producing agent is unwilling or unable to accept
 1615 appointment for any reason, including the failure of such agent
 1616 to be licensed as a surplus lines agent, the new insurer shall
 1617 pay the agent in accordance with sub-sub-sub-subparagraph (A).
 1618 This sub-sub-subparagraph does not apply to an authorized
 1619 insurer that is an eligible surplus lines insurer.

1620 b. With respect to commercial lines residential risks, for
 1621 a new application to the corporation for coverage, if the risk
 1622 is offered coverage under a policy including wind coverage from
 1623 an admitted ~~authorized~~ insurer at its approved rate, the risk is
 1624 not eligible for a policy issued by the corporation unless the
 1625 premium for coverage from the admitted ~~authorized~~ insurer is

1626 more than 20 percent greater than the premium for comparable
1627 coverage from the corporation. Whenever an offer of coverage for
1628 a commercial lines residential risk is received for a
1629 policyholder of the corporation at renewal from an admitted
1630 ~~authorized~~ insurer, the risk is not eligible for coverage with
1631 the corporation unless the premium for coverage from the
1632 admitted ~~authorized~~ insurer is more than 20 percent greater than
1633 the corporation's renewal premium for comparable coverage. If
1634 the risk is not able to obtain any such offer, the risk is
1635 eligible for a policy including wind coverage issued by the
1636 corporation. A policyholder removed from the corporation through
1637 an assumption agreement remains eligible for coverage from the
1638 corporation until the end of the policy term. However, any
1639 policy removed from the corporation through an assumption
1640 agreement remains on the corporation's policy forms through the
1641 end of the policy term. With respect to commercial lines
1642 residential risks for a new application to the corporation for
1643 coverage, if the risk is offered coverage from an eligible
1644 surplus lines insurer at the insurer's approved rate under a
1645 policy including wind coverage, the risk is not eligible for a
1646 policy issued by the corporation. If an offer of coverage for a
1647 commercial lines residential risk is received for a policyholder
1648 of the corporation by an eligible surplus lines insurer at
1649 renewal, the risk is not eligible for coverage with the
1650 corporation.

1651 (I) If the risk accepts an offer of coverage through the
 1652 market assistance plan or through a mechanism established by the
 1653 corporation other than a plan established by s. 627.3518, before
 1654 a policy is issued to the risk by the corporation or during the
 1655 first 30 days of coverage by the corporation, and the producing
 1656 agent who submitted the application to the plan or the
 1657 corporation is not currently appointed by the insurer, the
 1658 insurer shall:

1659 (A) Pay to the producing agent of record of the policy,
 1660 for the first year, an amount that is the greater of the
 1661 insurer's usual and customary commission for the type of policy
 1662 written or a fee equal to the usual and customary commission of
 1663 the corporation; or

1664 (B) Offer to allow the producing agent of record of the
 1665 policy to continue servicing the policy for at least 1 year and
 1666 offer to pay the agent the greater of the insurer's or the
 1667 corporation's usual and customary commission for the type of
 1668 policy written.

1669
 1670 If the producing agent is unwilling or unable to accept
 1671 appointment for any reason, including the failure of such agent
 1672 to be licensed as a surplus lines agent, the new insurer shall
 1673 pay the agent in accordance with sub-sub-sub-subparagraph (A).
 1674 This sub-sub-subparagraph does not apply to an authorized
 1675 insurer that is an eligible surplus lines insurer.

1676 (II) If the corporation enters into a contractual
 1677 agreement for a take-out plan, the producing agent of record of
 1678 the corporation policy is entitled to retain any unearned
 1679 commission on the policy, and the insurer shall:

1680 (A) Pay to the producing agent of record, for the first
 1681 year, an amount that is the greater of the insurer's usual and
 1682 customary commission for the type of policy written or a fee
 1683 equal to the usual and customary commission of the corporation;
 1684 or

1685 (B) Offer to allow the producing agent of record to
 1686 continue servicing the policy for at least 1 year and offer to
 1687 pay the agent the greater of the insurer's or the corporation's
 1688 usual and customary commission for the type of policy written.

1689
 1690 If the producing agent is unwilling or unable to accept
 1691 appointment for any reason, including the failure of such agent
 1692 to be licensed as a surplus lines agent, the new insurer shall
 1693 pay the agent in accordance with sub-sub-sub-subparagraph (A).
 1694 This sub-sub-subparagraph does not apply to an authorized
 1695 insurer that is an eligible surplus lines insurer.

1696 c. For purposes of determining comparable coverage under
 1697 sub-subparagraphs a. and b., the comparison must be based on
 1698 those forms and coverages that are reasonably comparable. The
 1699 corporation may rely on a determination of comparable coverage
 1700 and premium made by the producing agent who submits the

1701 application to the corporation, made in the agent's capacity as
 1702 the corporation's agent. For purposes of comparing the premium
 1703 for comparable coverage under sub-subparagraphs a. and b.,
 1704 premium includes any surcharge or assessment that is actually
 1705 applied to such policy. A comparison may be made solely of the
 1706 premium with respect to the main building or structure only on
 1707 the following basis: the same Coverage A or other building
 1708 limits; the same percentage hurricane deductible that applies on
 1709 an annual basis or that applies to each hurricane for commercial
 1710 residential property; the same percentage of ordinance and law
 1711 coverage, if the same limit is offered by both the corporation
 1712 and the authorized insurer; the same mitigation credits, to the
 1713 extent the same types of credits are offered both by the
 1714 corporation and the authorized insurer; the same method for loss
 1715 payment, such as replacement cost or actual cash value, if the
 1716 same method is offered both by the corporation and the
 1717 authorized insurer in accordance with underwriting rules; and
 1718 any other form or coverage that is reasonably comparable as
 1719 determined by the board. If an application is submitted to the
 1720 corporation for wind-only coverage on a risk that is located in
 1721 an area eligible for coverage by the Florida Windstorm
 1722 Underwriting Association, as that area was defined on January 1,
 1723 2002, the premium for the corporation's wind-only policy plus
 1724 the premium for the ex-wind policy that is offered by an
 1725 authorized insurer to the applicant must be compared to the

1726 premium for multiperil coverage offered by an authorized
 1727 insurer, subject to the standards for comparison specified in
 1728 this subparagraph. If the corporation or the applicant requests
 1729 from the authorized insurer a breakdown of the premium of the
 1730 offer by types of coverage so that a comparison may be made by
 1731 the corporation or its agent and the authorized insurer refuses
 1732 or is unable to provide such information, the corporation may
 1733 treat the offer as not being an offer of coverage from an
 1734 authorized insurer at the insurer's approved rate. However,
 1735 notwithstanding any other provision of law, this sub-
 1736 subparagraph does not apply to a policy that does not cover a
 1737 primary residence.

1738 6. Must include rules for classifications of risks and
 1739 rates.

1740 7. Must provide that if premium and investment income:

1741 a. for the Citizens an account, which are attributable to
 1742 a particular calendar year are in excess of projected losses and
 1743 expenses for the Citizens account attributable to that year,
 1744 such excess shall be held in surplus in the Citizens account.
 1745 Such surplus must be available to defray deficits in the
 1746 Citizens ~~that~~ account as to future years and used for that
 1747 purpose before assessing assessable insurers and assessable
 1748 insureds as to any calendar year; ~~or~~

1749 ~~b. For the Citizens account, if established by the~~
 1750 ~~corporation, which are attributable to a particular calendar~~

1751 ~~year are in excess of projected losses and expenses for the~~
 1752 ~~Citizens account attributable to that year, such excess shall be~~
 1753 ~~held in surplus in the Citizens account. Such surplus must be~~
 1754 ~~available to defray deficits in the Citizens account as to~~
 1755 ~~future years and used for that purpose before assessing~~
 1756 ~~assessable insurers and assessable insureds as to any calendar~~
 1757 ~~year.~~

1758 8. Must provide objective criteria and procedures to be
 1759 uniformly applied to all applicants in determining whether an
 1760 individual risk is so hazardous as to be uninsurable. In making
 1761 this determination and in establishing the criteria and
 1762 procedures, the following must be considered:

1763 a. Whether the likelihood of a loss for the individual
 1764 risk is substantially higher than for other risks of the same
 1765 class; and

1766 b. Whether the uncertainty associated with the individual
 1767 risk is such that an appropriate premium cannot be determined.

1768
 1769 The acceptance or rejection of a risk by the corporation shall
 1770 be construed as the private placement of insurance, and the
 1771 provisions of chapter 120 do not apply.

1772 9. Must provide that the corporation make its best efforts
 1773 to procure catastrophe reinsurance at reasonable rates, to cover
 1774 its projected 100-year probable maximum loss as determined by
 1775 the board of governors. If catastrophe reinsurance is not

1776 available at reasonable rates, the corporation need not purchase
 1777 it, but the corporation shall include the costs of reinsurance
 1778 to cover its projected 100-year probable maximum loss in its
 1779 rate calculations even if it does not purchase catastrophe
 1780 reinsurance.

1781 10. The policies issued by the corporation must provide
 1782 that if the corporation or the market assistance plan obtains an
 1783 offer from an authorized insurer to cover the risk at its
 1784 approved rates, the risk is no longer eligible for renewal
 1785 through the corporation, except as otherwise provided in this
 1786 subsection.

1787 11. Corporation policies and applications must include a
 1788 notice that the corporation policy could, under this section, be
 1789 replaced with a policy issued by an authorized insurer which
 1790 does not provide coverage identical to the coverage provided by
 1791 the corporation. The notice must also specify that acceptance of
 1792 corporation coverage creates a conclusive presumption that the
 1793 applicant or policyholder is aware of this potential.

1794 12. May establish, subject to approval by the office,
 1795 different eligibility requirements and operational procedures
 1796 for any line or type of coverage for any specified county or
 1797 area if the board determines that such changes are justified due
 1798 to the voluntary market being sufficiently stable and
 1799 competitive in such area or for such line or type of coverage
 1800 and that consumers who, in good faith, are unable to obtain

1801 insurance through the voluntary market through ordinary methods
 1802 continue to have access to coverage from the corporation. If
 1803 coverage is sought in connection with a real property transfer,
 1804 the requirements and procedures may not provide an effective
 1805 date of coverage later than the date of the closing of the
 1806 transfer as established by the transferor, the transferee, and,
 1807 if applicable, the lender.

1808 ~~13. Must provide that:~~

1809 ~~a. With respect to the coastal account, any assessable~~
 1810 ~~insurer with a surplus as to policyholders of \$25 million or~~
 1811 ~~less writing 25 percent or more of its total countrywide~~
 1812 ~~property insurance premiums in this state may petition the~~
 1813 ~~office, within the first 90 days of each calendar year, to~~
 1814 ~~qualify as a limited apportionment company. A regular assessment~~
 1815 ~~levied by the corporation on a limited apportionment company for~~
 1816 ~~a deficit incurred by the corporation for the coastal account~~
 1817 ~~may be paid to the corporation on a monthly basis as the~~
 1818 ~~assessments are collected by the limited apportionment company~~
 1819 ~~from its insureds, but a limited apportionment company must~~
 1820 ~~begin collecting the regular assessments not later than 90 days~~
 1821 ~~after the regular assessments are levied by the corporation, and~~
 1822 ~~the regular assessments must be paid in full within 15 months~~
 1823 ~~after being levied by the corporation. A limited apportionment~~
 1824 ~~company shall collect from its policyholders any emergency~~
 1825 ~~assessment imposed under sub-subparagraph (b) 3.e. The plan must~~

1826 ~~provide that, if the office determines that any regular~~
 1827 ~~assessment will result in an impairment of the surplus of a~~
 1828 ~~limited apportionment company, the office may direct that all or~~
 1829 ~~part of such assessment be deferred as provided in subparagraph~~
 1830 ~~(q)4. However, an emergency assessment to be collected from~~
 1831 ~~policyholders under sub-subparagraph (b)3.e. may not be limited~~
 1832 ~~or deferred; or~~

1833 ~~b. With respect to the Citizens account, if established by~~
 1834 ~~the corporation pursuant to sub-subparagraph (b)2.b., any~~
 1835 ~~assessable insurer with a surplus as to policyholders of \$25~~
 1836 ~~million or less and writing 25 percent or more of its total~~
 1837 ~~countrywide property insurance premiums in this state may~~
 1838 ~~petition the office, within the first 90 days of each calendar~~
 1839 ~~year, to qualify as a limited apportionment company. A limited~~
 1840 ~~apportionment company shall collect from its policyholders any~~
 1841 ~~emergency assessment imposed under sub-subparagraph (b)5.e. An~~
 1842 ~~emergency assessment to be collected from policyholders under~~
 1843 ~~sub-subparagraph (b)5.e. may not be limited or deferred.~~

1844 ~~13.14.~~ Must provide that the corporation appoint as its
 1845 licensed agents only those agents who throughout such
 1846 appointments also hold an appointment as defined in s. 626.015
 1847 by at least three insurers ~~an insurer~~ who are ~~is~~ authorized to
 1848 write and are ~~is~~ actually writing or renewing personal lines
 1849 residential property coverage, commercial residential property
 1850 coverage, or commercial nonresidential property coverage within

1851 the state.

1852 ~~14.15.~~ Must provide a premium payment plan option to its
 1853 policyholders which, at a minimum, allows for quarterly and
 1854 semiannual payment of premiums. A monthly payment plan may, but
 1855 is not required to, be offered.

1856 ~~15.16.~~ Must limit coverage on mobile homes or manufactured
 1857 homes built before 1994 to actual cash value of the dwelling
 1858 rather than replacement costs of the dwelling.

1859 ~~16.17.~~ Must provide coverage for manufactured or mobile
 1860 home dwellings. Such coverage must also include the following
 1861 attached structures:

1862 a. Screened enclosures that are aluminum framed or
 1863 screened enclosures that are not covered by the same or
 1864 substantially the same materials as those of the primary
 1865 dwelling;

1866 b. Carports that are aluminum or carports that are not
 1867 covered by the same or substantially the same materials as those
 1868 of the primary dwelling; and

1869 c. Patios that have a roof covering that is constructed of
 1870 materials that are not the same or substantially the same
 1871 materials as those of the primary dwelling.

1872
 1873 The corporation shall make available a policy for mobile homes
 1874 or manufactured homes for a minimum insured value of at least
 1875 \$3,000.

1876 17.18. May provide such limits of coverage as the board
 1877 determines, consistent with the requirements of this subsection.

1878 18.19. May require commercial property to meet specified
 1879 hurricane mitigation construction features as a condition of
 1880 eligibility for coverage.

1881 19.20. Must provide that new or renewal policies issued by
 1882 the corporation on or after January 1, 2012, which cover
 1883 sinkhole loss do not include coverage for any loss to
 1884 appurtenant structures, driveways, sidewalks, decks, or patios
 1885 that are directly or indirectly caused by sinkhole activity. The
 1886 corporation shall exclude such coverage using a notice of
 1887 coverage change, which may be included with the policy renewal,
 1888 and not by issuance of a notice of nonrenewal of the excluded
 1889 coverage upon renewal of the current policy.

1890 20.a.21.a. ~~As of January 1, 2012, unless the Citizens~~
 1891 ~~account has been established pursuant to sub-subparagraph~~
 1892 ~~(b)2.b.,~~ Must require that the agent obtain from an applicant
 1893 for coverage from the corporation the following ~~an~~
 1894 acknowledgment signed by the applicant, which includes, at a
 1895 minimum, the following statement:

1896 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE

1897 AND ASSESSMENT LIABILITY:

1898 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
 1899 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
 1900 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,

1901 MY POLICY COULD BE SUBJECT TO SURCHARGES AND ASSESSMENTS, WHICH
 1902 WILL BE DUE AND PAYABLE UPON RENEWAL, CANCELLATION, OR
 1903 TERMINATION OF THE POLICY, AND THAT THE SURCHARGES AND
 1904 ASSESSMENTS COULD BE AS HIGH AS 25 ~~45~~ PERCENT OF MY PREMIUM, OR
 1905 A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA LEGISLATURE.

1906 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER
 1907 SURCHARGE, WHICH COULD BE AS HIGH AS 15 ~~45~~ PERCENT OF MY
 1908 PREMIUM, BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND
 1909 THAT TO BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY
 1910 TO OBTAIN PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR
 1911 RENEWING COVERAGE WITH CITIZENS. I UNDERSTAND THAT PRIVATE
 1912 MARKET INSURANCE RATES ARE REGULATED AND APPROVED BY THE STATE.

1913 3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
 1914 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
 1915 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
 1916 FLORIDA LEGISLATURE.

1917 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
 1918 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
 1919 STATE OF FLORIDA.

1920 ~~b. The corporation must require, if it has established the~~
 1921 ~~Citizens account pursuant to sub-subparagraph (b)2.b., that the~~
 1922 ~~agent obtain from an applicant for coverage from the corporation~~
 1923 ~~the following acknowledgment signed by the applicant, which~~
 1924 ~~includes, at a minimum, the following statement:~~

1925 ~~ACKNOWLEDGMENT OF POTENTIAL SURCHARGE~~

~~AND ASSESSMENT LIABILITY:~~

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

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

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

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

~~b.e.~~ The corporation shall maintain, in electronic format or otherwise, a copy of the applicant's signed acknowledgment

1951 and provide a copy of the statement to the policyholder as part
 1952 of the first renewal after the effective date of sub-
 1953 subparagraph a. ~~or sub-subparagraph b., as applicable.~~

1954 c.d. The signed acknowledgment form creates a conclusive
 1955 presumption that the policyholder understood and accepted his or
 1956 her potential surcharge and assessment liability as a
 1957 policyholder of the corporation.

1958 (d)1. All prospective employees for senior management
 1959 positions, as defined by the plan of operation, are subject to
 1960 background checks as a prerequisite for employment. The office
 1961 shall conduct the background checks pursuant to ss. 624.34,
 1962 624.404(3), and 628.261.

1963 2. On or before July 1 of each year, employees of the
 1964 corporation must sign and submit a statement attesting that they
 1965 do not have a conflict of interest, as defined in part III of
 1966 chapter 112. As a condition of employment, all prospective
 1967 employees must sign and submit to the corporation a conflict-of-
 1968 interest statement.

1969 3. The executive director, senior managers, and members of
 1970 the board of governors are subject to part III of chapter 112,
 1971 including, but not limited to, the code of ethics and public
 1972 disclosure and reporting of financial interests, pursuant to s.
 1973 112.3145. For purposes of applying part III of chapter 112 to
 1974 activities of the executive director, senior managers, and
 1975 members of the board of governors, those persons shall be

1976 | considered public officers or employees and the corporation
 1977 | shall be considered their agency. Notwithstanding s.
 1978 | 112.3143(2), a board member may not vote on any measure that
 1979 | would inure to his or her special private gain or loss; that he
 1980 | or she knows would inure to the special private gain or loss of
 1981 | any principal by whom he or she is retained or to the parent
 1982 | organization or subsidiary of a corporate principal by which he
 1983 | or she is retained, other than an agency as defined in s.
 1984 | 112.312; or that he or she knows would inure to the special
 1985 | private gain or loss of a relative or business associate of the
 1986 | public officer. Before the vote is taken, such member shall
 1987 | publicly state to the assembly the nature of his or her interest
 1988 | in the matter from which he or she is abstaining from voting
 1989 | and, within 15 days after the vote occurs, disclose the nature
 1990 | of his or her interest as a public record in a memorandum filed
 1991 | with the person responsible for recording the minutes of the
 1992 | meeting, who shall incorporate the memorandum in the minutes.
 1993 | Senior managers and board members are also required to file such
 1994 | disclosures with the Commission on Ethics and the Office of
 1995 | Insurance Regulation. The executive director of the corporation
 1996 | or his or her designee shall notify each existing and newly
 1997 | appointed member of the board of governors and senior managers
 1998 | of their duty to comply with the reporting requirements of part
 1999 | III of chapter 112. At least quarterly, the executive director
 2000 | or his or her designee shall submit to the Commission on Ethics

2001 a list of names of the senior managers and members of the board
 2002 of governors who are subject to the public disclosure
 2003 requirements under s. 112.3145.

2004 4. Notwithstanding s. 112.3148, s. 112.3149, or any other
 2005 provision of law, an employee or board member may not knowingly
 2006 accept, directly or indirectly, any gift or expenditure from a
 2007 person or entity, or an employee or representative of such
 2008 person or entity, which has a contractual relationship with the
 2009 corporation or who is under consideration for a contract. An
 2010 employee or board member who fails to comply with subparagraph
 2011 3. or this subparagraph is subject to penalties provided under
 2012 ss. 112.317 and 112.3173.

2013 5. Any senior manager of the corporation who is employed
 2014 on or after January 1, 2007, regardless of the date of hire, who
 2015 subsequently retires or terminates employment is prohibited from
 2016 representing another person or entity before the corporation for
 2017 2 years after retirement or termination of employment from the
 2018 corporation.

2019 6. The executive director, members of the board of
 2020 governors, and senior managers of the corporation are prohibited
 2021 from having any employment or contractual relationship for 2
 2022 years after retirement from or termination of service to the
 2023 corporation with an insurer that has entered into a take-out
 2024 bonus agreement with the corporation.

2025 (e) The corporation is subject to s. 287.057 for the

2026 purchase of commodities and contractual services except as
 2027 otherwise provided in this paragraph. Services provided by
 2028 tradepersons or technical experts to assist a licensed adjuster
 2029 in the evaluation of individual claims are not subject to the
 2030 procurement requirements of this section. Additionally, the
 2031 procurement of financial services providers and underwriters
 2032 must be made pursuant to s. 627.3513. Contracts for goods or
 2033 services valued at or more than \$100,000 are subject to approval
 2034 by the board.

2035 1. The corporation is an agency for purposes of s.
 2036 287.057, except that, for purposes of s. 287.057(24), the
 2037 corporation is an eligible user.

2038 a. The authority of the Department of Management Services
 2039 and the Chief Financial Officer under s. 287.057 extends to the
 2040 corporation as if the corporation were an agency.

2041 b. The executive director of the corporation is the agency
 2042 head under s. 287.057, ~~except for resolution of bid protests for~~
 2043 ~~which the board would serve as the agency head.~~ The executive
 2044 director may assign or appoint a designee to act on his or her
 2045 behalf.

2046 2. The corporation must provide notice of a decision or
 2047 intended decision concerning a solicitation, contract award, or
 2048 exceptional purchase by electronic posting. Such notice must
 2049 contain the following statement: "Failure to file a protest
 2050 within the time prescribed in this section constitutes a waiver

2051 of proceedings."

2052 a. A person adversely affected by the corporation's
 2053 decision or intended decision to award a contract pursuant to s.
 2054 287.057(1) or (3)(c) who elects to challenge the decision must
 2055 file a written notice of protest with the executive director of
 2056 the corporation within 72 hours after the corporation posts a
 2057 notice of its decision or intended decision. For a protest of
 2058 the terms, conditions, and specifications contained in a
 2059 solicitation, including provisions governing the methods for
 2060 ranking bids, proposals, replies, awarding contracts, reserving
 2061 rights of further negotiation, or modifying or amending any
 2062 contract, the notice of protest must be filed in writing within
 2063 72 hours after posting the solicitation. Saturdays, Sundays, and
 2064 state holidays are excluded in the computation of the 72-hour
 2065 time period.

2066 b. A formal written protest must be filed within 10 days
 2067 after the date the notice of protest is filed. The formal
 2068 written protest must state with particularity the facts and law
 2069 upon which the protest is based. Upon receipt of a formal
 2070 written protest that has been timely filed, the corporation must
 2071 stop the solicitation or contract award process until the
 2072 subject of the protest is resolved by final board action unless
 2073 the executive director sets forth in writing particular facts
 2074 and circumstances that require the continuance of the
 2075 solicitation or contract award process without delay in order to

2076 | avoid an immediate and serious danger to the public health,
 2077 | safety, or welfare.

2078 | (I) The corporation must provide an opportunity to resolve
 2079 | the protest by mutual agreement between the parties within 7
 2080 | business days after receipt of the formal written protest.

2081 | (II) If the subject of a protest is not resolved by mutual
 2082 | agreement within 7 business days, the corporation's board must
 2083 | transmit the protest to the Division of Administrative Hearings
 2084 | and contract with the division to conduct a hearing to determine
 2085 | the merits of the protest and to issue a recommended order. The
 2086 | contract must provide for the corporation to reimburse the
 2087 | division for any costs incurred by the division for court
 2088 | reporters, transcript preparation, travel, facility rental, and
 2089 | other customary hearing costs in the manner set forth in s.
 2090 | 120.65(9). The division has jurisdiction to determine the facts
 2091 | and law concerning the protest and to issue a recommended order.
 2092 | The division's rules and procedures apply to these proceedings~~+~~
 2093 | ~~the division's applicable bond requirements do not apply.~~ The
 2094 | protest must be heard by the division at a publicly noticed
 2095 | meeting in accordance with procedures established by the
 2096 | division.

2097 | c. In a protest of an invitation-to-bid or request-for-
 2098 | proposals procurement, submissions made after the bid or
 2099 | proposal opening which amend or supplement the bid or proposal
 2100 | may not be considered. In protesting an invitation-to-negotiate

2101 procurement, submissions made after the corporation announces
 2102 its intent to award a contract, reject all replies, or withdraw
 2103 the solicitation that amends or supplements the reply may not be
 2104 considered. Unless otherwise provided by law, the burden of
 2105 proof rests with the party protesting the corporation's action.
 2106 In a competitive-procurement protest, other than a rejection of
 2107 all bids, proposals, or replies, the administrative law judge
 2108 must conduct a de novo proceeding to determine whether the
 2109 corporation's proposed action is contrary to the corporation's
 2110 governing statutes, the corporation's rules or policies, or the
 2111 solicitation specifications. The standard of proof for the
 2112 proceeding is whether the corporation's action was clearly
 2113 erroneous, contrary to competition, arbitrary, or capricious. In
 2114 any bid-protest proceeding contesting an intended corporation
 2115 action to reject all bids, proposals, or replies, the standard
 2116 of review by the board is whether the corporation's intended
 2117 action is illegal, arbitrary, dishonest, or fraudulent.

2118 d. Failure to file a notice of protest or failure to file
 2119 a formal written protest constitutes a waiver of proceedings.

2120 3. The ~~board, acting as~~ agency head or his or her
 2121 designee, shall consider the recommended order of an
 2122 administrative law judge ~~in a public meeting~~ and take final
 2123 action on the protest. Any further legal remedy lies with the
 2124 First District Court of Appeal.

2125 (f) The corporation is subject to the provisions of

2126 chapter 255.

2127 (g) The board shall determine whether it is more cost-
 2128 effective and in the best interests of the corporation to use
 2129 legal services provided by in-house attorneys employed by the
 2130 corporation rather than contracting with outside counsel. In
 2131 making such determination, the board shall document its findings
 2132 and shall consider: the expertise needed; whether time
 2133 commitments exceed in-house staff resources; whether local
 2134 representation is needed; the travel, lodging and other costs
 2135 associated with in-house representation; and such other factors
 2136 that the board determines are relevant.

2137 (h) The corporation may not retain a lobbyist to represent
 2138 it before the legislative branch or executive branch. However,
 2139 full-time employees of the corporation may register as lobbyists
 2140 and represent the corporation before the legislative branch or
 2141 executive branch.

2142 (i)1. The Office of the Internal Auditor is established
 2143 within the corporation to provide a central point for
 2144 coordination of and responsibility for activities that promote
 2145 accountability, integrity, and efficiency to the policyholders
 2146 and to the taxpayers of this state. The internal auditor shall
 2147 be appointed by the board of governors, shall report to and be
 2148 under the general supervision of the board of governors, and is
 2149 not subject to supervision by an employee of the corporation.
 2150 Administrative staff and support shall be provided by the

2151 corporation. The internal auditor shall be appointed without
 2152 regard to political affiliation. It is the duty and
 2153 responsibility of the internal auditor to:

2154 a. Provide direction for, supervise, conduct, and
 2155 coordinate audits, investigations, and management reviews
 2156 relating to the programs and operations of the corporation.

2157 b. Conduct, supervise, or coordinate other activities
 2158 carried out or financed by the corporation for the purpose of
 2159 promoting efficiency in the administration of, or preventing and
 2160 detecting fraud, abuse, and mismanagement in, its programs and
 2161 operations.

2162 c. Submit final audit reports, reviews, or investigative
 2163 reports to the board of governors, the executive director, the
 2164 members of the Financial Services Commission, and the President
 2165 of the Senate and the Speaker of the House of Representatives.

2166 d. Keep the board of governors informed concerning fraud,
 2167 abuses, and internal control deficiencies relating to programs
 2168 and operations administered or financed by the corporation,
 2169 recommend corrective action, and report on the progress made in
 2170 implementing corrective action.

2171 e. Cooperate and coordinate activities with the
 2172 corporation's inspector general.

2173 2. On or before February 15, the internal auditor shall
 2174 prepare an annual report evaluating the effectiveness of the
 2175 internal controls of the corporation and providing

2176 recommendations for corrective action, if necessary, and
2177 summarizing the audits, reviews, and investigations conducted by
2178 the office during the preceding fiscal year. The final report
2179 shall be furnished to the board of governors and the executive
2180 director, the President of the Senate, the Speaker of the House
2181 of Representatives, and the Financial Services Commission.

2182 (j) All records of the corporation, except as otherwise
2183 provided by law, are subject to the record retention
2184 requirements of s. 119.021.

2185 (k)1. The corporation shall establish and maintain a unit
2186 or division to investigate possible fraudulent claims by
2187 insureds or by persons making claims for services or repairs
2188 against policies held by insureds; or it may contract with
2189 others to investigate possible fraudulent claims for services or
2190 repairs against policies held by the corporation pursuant to s.
2191 626.9891. The corporation must comply with reporting
2192 requirements of s. 626.9891. An employee of the corporation
2193 shall notify the corporation's Office of the Inspector General
2194 and the Division of Investigative and Forensic Services within
2195 48 hours after having information that would lead a reasonable
2196 person to suspect that fraud may have been committed by any
2197 employee of the corporation.

2198 2. The corporation shall establish a unit or division
2199 responsible for receiving and responding to consumer complaints,
2200 which unit or division is the sole responsibility of a senior

2201 manager of the corporation.

2202 (l) The office shall conduct a comprehensive market
 2203 conduct examination of the corporation every 2 years to
 2204 determine compliance with its plan of operation and internal
 2205 operations procedures. The first market conduct examination
 2206 report shall be submitted to the President of the Senate and the
 2207 Speaker of the House of Representatives no later than February
 2208 1, 2009. Subsequent reports shall be submitted on or before
 2209 February 1 every 2 years thereafter.

2210 (m) The Auditor General shall conduct an operational audit
 2211 of the corporation every 3 years to evaluate management's
 2212 performance in administering laws, policies, and procedures
 2213 governing the operations of the corporation in an efficient and
 2214 effective manner. The scope of the review shall include, but is
 2215 not limited to, evaluating claims handling, customer service,
 2216 take-out programs and bonuses, financing arrangements,
 2217 procurement of goods and services, internal controls, and the
 2218 internal audit function. The initial audit must be completed by
 2219 February 1, 2009.

2220 (n)1. Rates for coverage provided by the corporation must
 2221 be actuarially sound pursuant to s. 627.062 and not competitive
 2222 with approved rates charged in the admitted voluntary market so
 2223 that the corporation functions as a residual market mechanism to
 2224 provide insurance only when insurance cannot be procured in the
 2225 voluntary market, except as otherwise provided in this

2226 paragraph. The office shall provide the corporation such
 2227 information as would be necessary to determine whether rates are
 2228 competitive. The corporation shall file its recommended rates
 2229 with the office at least annually. The corporation shall provide
 2230 any additional information regarding the rates which the office
 2231 requires. The office shall consider the recommendations of the
 2232 board and issue a final order establishing the rates for the
 2233 corporation within 45 days after the recommended rates are
 2234 filed. The corporation may not pursue an administrative
 2235 challenge or judicial review of the final order of the office.

2236 2. In addition to the rates otherwise determined pursuant
 2237 to this paragraph, the corporation shall impose and collect an
 2238 amount equal to the premium tax provided in s. 624.509 to
 2239 augment the financial resources of the corporation.

2240 3. After the public hurricane loss-projection model under
 2241 s. 627.06281 has been found to be accurate and reliable by the
 2242 Florida Commission on Hurricane Loss Projection Methodology, the
 2243 model shall be considered when establishing the windstorm
 2244 portion of the corporation's rates. The corporation may use the
 2245 public model results in combination with the results of private
 2246 models to calculate rates for the windstorm portion of the
 2247 corporation's rates. This subparagraph does not require or allow
 2248 the corporation to adopt rates lower than the rates otherwise
 2249 required or allowed by this paragraph.

2250 4. The corporation must make a recommended actuarially

2251 sound rate filing for each personal and commercial line of
 2252 business it writes.

2253 5. Notwithstanding the board's recommended rates and the
 2254 office's final order regarding the corporation's filed rates
 2255 under subparagraph 1., the corporation shall annually implement
 2256 a rate increase which, except for sinkhole coverage, does not
 2257 exceed the following for any single policy issued by the
 2258 corporation, excluding coverage changes and surcharges:

- 2259 ~~a. Twelve percent for 2023.~~
- 2260 a.b. Thirteen percent for 2024.
- 2261 b.e. Fourteen percent for 2025.
- 2262 c.d. Fifteen percent for 2026 and all subsequent years.

2263
 2264 With the exception of counties in which the office determines
 2265 there is not a reasonable degree of competition, this
 2266 subparagraph does not apply to a personal lines residential
 2267 structure that has a dwelling replacement cost of \$700,000 or
 2268 more or a single condominium unit that has a combined dwelling
 2269 and contents replacement cost of \$700,000 or more.

2270 6. The corporation may also implement an increase to
 2271 reflect the effect on the corporation of the cash buildup factor
 2272 pursuant to s. 215.555(5)(b).

2273 7. The corporation's implementation of rates as prescribed
 2274 in subparagraphs 5. and 8. shall cease for any line of business
 2275 written by the corporation upon the corporation's implementation

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

2281 8. The following new or renewal personal lines policies
 2282 written on or after November 1, 2023, are not subject to the
 2283 rate increase limitations in subparagraph 5., but may not be
 2284 charged more than 50 percent above, and may not be charged ~~nor~~
 2285 less than, the prior year's established rate for the
 2286 corporation:

- 2287 a. Policies that do not cover a primary residence;
- 2288 b. New policies under which the coverage for the insured
 2289 risk, before the date of application with the corporation, was
 2290 last provided by an insurer determined by the office to be
 2291 unsound or an insurer placed in receivership under chapter 631;
 2292 or

- 2293 c. Subsequent renewals of those policies, including the
 2294 new policies in sub-subparagraph b., under which the coverage
 2295 for the insured risk, before the date of application with the
 2296 corporation, was last provided by an insurer determined by the
 2297 office to be unsound or an insurer placed in receivership under
 2298 chapter 631.

2299 9. As used in this paragraph, the term "primary residence"
 2300 means the dwelling that is the policyholder's primary home or is

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

2304 (o) If coverage in ~~an account, or~~ the Citizens account ~~is~~
 2305 ~~established by the corporation,~~ is deactivated pursuant to
 2306 paragraph (p), coverage through the corporation shall be
 2307 reactivated by order of the office only under one of the
 2308 following circumstances:

2309 1. If the market assistance plan receives a minimum of 100
 2310 applications for coverage within a 3-month period, or 200
 2311 applications for coverage within a 1-year period or less for
 2312 residential coverage, unless the market assistance plan provides
 2313 a quotation from authorized ~~admitted~~ carriers at their approved
 2314 ~~filed~~ rates for at least 90 percent of such applicants. Any
 2315 market assistance plan application that is rejected because an
 2316 individual risk is so hazardous as to be uninsurable using the
 2317 criteria specified in subparagraph (c)8. shall not be included
 2318 in the minimum percentage calculation provided herein. In the
 2319 event that there is a legal or administrative challenge to a
 2320 determination by the office that the conditions of this
 2321 subparagraph have been met for eligibility for coverage in the
 2322 corporation, any eligible risk may obtain coverage during the
 2323 pendency of such challenge.

2324 2. In response to a state of emergency declared by the
 2325 Governor under s. 252.36, the office may activate coverage by

2326 order for the period of the emergency upon a finding by the
 2327 office that the emergency significantly affects the availability
 2328 of residential property insurance.

2329 (p)1. The corporation shall file with the office quarterly
 2330 statements of financial condition, an annual statement of
 2331 financial condition, and audited financial statements in the
 2332 manner prescribed by law. In addition, the corporation shall
 2333 report to the office monthly on the types, premium, exposure,
 2334 and distribution by county of its policies in force, and shall
 2335 submit other reports as the office requires to carry out its
 2336 oversight of the corporation.

2337 2. The activities of the corporation shall be reviewed at
 2338 least annually by the office to determine whether coverage shall
 2339 be deactivated ~~in an account, or~~ in the Citizens account ~~if~~
 2340 ~~established by the corporation,~~ on the basis that the conditions
 2341 giving rise to its activation no longer exist.

2342 (q)1. The corporation shall certify to the office its
 2343 needs for annual assessments as to a particular calendar year,
 2344 and for any interim assessments that it deems to be necessary to
 2345 sustain operations as to a particular year pending the receipt
 2346 of annual assessments. Upon verification, the office shall
 2347 approve such certification, and the corporation shall levy such
 2348 annual or interim assessments. Such assessments shall be
 2349 prorated, if authority to levy exists, as provided in paragraph
 2350 (b). The corporation shall take all reasonable and prudent steps

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

2366 2. The governing body of any unit of local government, any
 2367 residents of which are insured by the corporation, may issue
 2368 bonds as defined in s. 125.013 or s. 166.101 from time to time
 2369 to fund an assistance program, in conjunction with the
 2370 corporation, for the purpose of defraying deficits of the
 2371 corporation. In order to avoid needless and indiscriminate
 2372 proliferation, duplication, and fragmentation of such assistance
 2373 programs, any unit of local government, any residents of which
 2374 are insured by the corporation, may provide for the payment of
 2375 losses, regardless of whether or not the losses occurred within

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

2397 3.a. The corporation shall adopt one or more programs
 2398 subject to approval by the office for the reduction of both new
 2399 and renewal writings in the corporation. Beginning January 1,
 2400 2008, any program the corporation adopts for the payment of

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

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

2430 (II) Offer to allow the producing agent of record of the
 2431 policy to continue servicing the policy for a period of not less
 2432 than 1 year and offer to pay the agent the insurer's usual and
 2433 customary commission for the type of policy written. If the
 2434 producing agent is unwilling or unable to accept appointment by
 2435 the new insurer for any reason, including to the failure of such
 2436 agent to be licensed as surplus lines agent, the new insurer
 2437 shall pay the agent in accordance with sub-sub-subparagraph (I).

2438 b. Any credit or exemption from regular assessments
 2439 adopted under this subparagraph shall last no longer than the 3
 2440 years following the cancellation or expiration of the policy by
 2441 the corporation. With the approval of the office, the board may
 2442 extend such credits for an additional year if the insurer
 2443 guarantees an additional year of renewability for all policies
 2444 removed from the corporation, or for 2 additional years if the
 2445 insurer guarantees 2 additional years of renewability for all
 2446 policies so removed.

2447 c. There shall be no credit, limitation, exemption, or
 2448 deferment from emergency assessments to be collected from
 2449 policyholders pursuant to sub-subparagraph (b)3.c. ~~(b)3.e. or~~
 2450 ~~sub-subparagraph (b)5.e.~~

2451 ~~4. The plan shall provide for the deferment, in whole or~~
2452 ~~in part, of the assessment of an assessable insurer, other than~~
2453 ~~an emergency assessment collected from policyholders pursuant to~~
2454 ~~sub-subparagraph (b)3.c. or sub-subparagraph (b)5.c., if the~~
2455 ~~office finds that payment of the assessment would endanger or~~
2456 ~~impair the solvency of the insurer. In the event an assessment~~
2457 ~~against an assessable insurer is deferred in whole or in part,~~
2458 ~~the amount by which such assessment is deferred may be assessed~~
2459 ~~against the other assessable insurers in a manner consistent~~
2460 ~~with the basis for assessments set forth in paragraph (b).~~

2461 4.5. Effective July 1, 2007, in order to evaluate the
2462 costs and benefits of approved take-out plans, if the
2463 corporation pays a bonus or other payment to an insurer for an
2464 approved take-out plan, it shall maintain a record of the
2465 address or such other identifying information on the property or
2466 risk removed in order to track if and when the property or risk
2467 is later insured by the corporation.

2468 ~~5.6.~~ Any policy taken out, assumed, or removed from the
2469 corporation is, as of the effective date of the take-out,
2470 assumption, or removal, direct insurance issued by the insurer
2471 and not by the corporation, even if the corporation continues to
2472 service the policies. This subparagraph applies to policies of
2473 the corporation and not policies taken out, assumed, or removed
2474 from any other entity.

2475 ~~6.7.~~ For a policy taken out, assumed, or removed from the

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

2481 (r) Nothing in this subsection shall be construed to
 2482 preclude the issuance of residential property insurance coverage
 2483 pursuant to part VIII of chapter 626.

2484 (s)1. There shall be no liability on the part of, and no
 2485 cause of action of any nature shall arise against, any
 2486 assessable insurer or its agents or employees, the corporation
 2487 or its agents or employees, members of the board of governors or
 2488 their respective designees at a board meeting, corporation
 2489 committee members, or the office or its representatives, for any
 2490 action taken by them in the performance of their duties or
 2491 responsibilities under this subsection. Such immunity does not
 2492 apply to:

2493 a. Any of the foregoing persons or entities for any
 2494 willful tort;

2495 b. The corporation or its producing agents for breach of
 2496 any contract or agreement pertaining to insurance coverage;

2497 c. The corporation with respect to issuance or payment of
 2498 debt;

2499 d. Any assessable insurer with respect to any action to
 2500 enforce an assessable insurer's obligations to the corporation

2501 under this subsection; or

2502 e. The corporation in any pending or future action for
 2503 breach of contract or for benefits under a policy issued by the
 2504 corporation.

2505 2. The corporation shall manage its claim employees,
 2506 independent adjusters, and others who handle claims to ensure
 2507 they carry out the corporation's duty to its policyholders to
 2508 handle claims carefully, timely, diligently, and in good faith,
 2509 balanced against the corporation's duty to the state to manage
 2510 its assets responsibly to minimize its assessment potential.

2511 (t) For the purposes of s. 199.183(1), the corporation
 2512 shall be considered a political subdivision of the state and
 2513 shall be exempt from the corporate income tax. The premiums,
 2514 assessments, investment income, and other revenue of the
 2515 corporation are funds received for providing property insurance
 2516 coverage as required by this subsection, paying claims for
 2517 Florida citizens insured by the corporation, securing and
 2518 repaying debt obligations issued by the corporation, and
 2519 conducting all other activities of the corporation, and shall
 2520 not be considered taxes, fees, licenses, or charges for services
 2521 imposed by the Legislature on individuals, businesses, or
 2522 agencies outside state government. Bonds and other debt
 2523 obligations issued by or on behalf of the corporation are not to
 2524 be considered "state bonds" within the meaning of s. 215.58(8).
 2525 The corporation is subject to the procurement provisions of

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

2548 (u) Upon a determination by the office that the conditions
 2549 giving rise to the establishment and activation of the
 2550 corporation no longer exist, the corporation is dissolved. Upon

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

2563 (v)1. Effective July 1, 2002, policies of the Residential
 2564 Property and Casualty Joint Underwriting Association become
 2565 policies of the corporation. All obligations, rights, assets and
 2566 liabilities of the association, including bonds, note and debt
 2567 obligations, and the financing documents pertaining to them
 2568 become those of the corporation as of July 1, 2002. The
 2569 corporation is not required to issue endorsements or
 2570 certificates of assumption to insureds during the remaining term
 2571 of in-force transferred policies.

2572 2. Effective July 1, 2002, policies of the Florida
 2573 Windstorm Underwriting Association are transferred to the
 2574 corporation and become policies of the corporation. All
 2575 obligations, rights, assets, and liabilities of the association,

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

2581 3. The Florida Windstorm Underwriting Association and the
 2582 Residential Property and Casualty Joint Underwriting Association
 2583 shall take all actions necessary to further evidence the
 2584 transfers and provide the documents and instruments of further
 2585 assurance as may reasonably be requested by the corporation for
 2586 that purpose. The corporation shall execute assumptions and
 2587 instruments as the trustees or other parties to the financing
 2588 documents of the Florida Windstorm Underwriting Association or
 2589 the Residential Property and Casualty Joint Underwriting
 2590 Association may reasonably request to further evidence the
 2591 transfers and assumptions, which transfers and assumptions,
 2592 however, are effective on the date provided under this paragraph
 2593 whether or not, and regardless of the date on which, the
 2594 assumptions or instruments are executed by the corporation.
 2595 ~~Subject to the relevant financing documents pertaining to their~~
 2596 ~~outstanding bonds, notes, indebtedness, or other financing~~
 2597 ~~obligations, the moneys, investments, receivables, choses in~~
 2598 ~~action, and other intangibles of the Florida Windstorm~~
 2599 ~~Underwriting Association shall be credited to the coastal~~
 2600 ~~account of the corporation, and those of the personal lines~~

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

2606 4. Effective July 1, 2002, a new applicant for property
 2607 insurance coverage who would otherwise have been eligible for
 2608 coverage in the Florida Windstorm Underwriting Association is
 2609 eligible for coverage from the corporation as provided in this
 2610 subsection.

2611 5. The transfer of all policies, obligations, rights,
 2612 assets, and liabilities from the Florida Windstorm Underwriting
 2613 Association to the corporation and the renaming of the
 2614 Residential Property and Casualty Joint Underwriting Association
 2615 as the corporation does not affect the coverage with respect to
 2616 covered policies as defined in s. 215.555(2)(c) provided to
 2617 these entities by the Florida Hurricane Catastrophe Fund. ~~The~~
 2618 ~~coverage provided by the fund to the Florida Windstorm~~
 2619 ~~Underwriting Association based on its exposures as of June 30,~~
 2620 ~~2002, and each June 30 thereafter, unless the corporation has~~
 2621 ~~established the Citizens account, shall be redesignated as~~
 2622 ~~coverage for the coastal account of the corporation.~~
 2623 ~~Notwithstanding any other provision of law, the coverage~~
 2624 ~~provided by the fund to the Residential Property and Casualty~~
 2625 ~~Joint Underwriting Association based on its exposures as of June~~

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

2644 (w) Notwithstanding any other provision of law:

2645 1. The pledge or sale of, the lien upon, and the security
 2646 interest in any rights, revenues, or other assets of the
 2647 corporation created or purported to be created pursuant to any
 2648 financing documents to secure any bonds or other indebtedness of
 2649 the corporation shall be and remain valid and enforceable,
 2650 notwithstanding the commencement of and during the continuation

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

2655 2. The proceeding does not relieve the corporation of its
 2656 obligation, or otherwise affect its ability to perform its
 2657 obligation, to continue to collect, or levy and collect,
 2658 assessments, policyholder surcharges or other surcharges ~~under~~
 2659 ~~sub-subparagraph (b) 3. j.~~, or any other rights, revenues, or
 2660 other assets of the corporation pledged pursuant to any
 2661 financing documents.

2662 3. Each such pledge or sale of, lien upon, and security
 2663 interest in, including the priority of such pledge, lien, or
 2664 security interest, any such assessments, policyholder surcharges
 2665 or other surcharges, or other rights, revenues, or other assets
 2666 which are collected, or levied and collected, after the
 2667 commencement of and during the pendency of, or after, any such
 2668 proceeding shall continue unaffected by such proceeding. As used
 2669 in this subsection, the term "financing documents" means any
 2670 agreement or agreements, instrument or instruments, or other
 2671 document or documents now existing or hereafter created
 2672 evidencing any bonds or other indebtedness of the corporation or
 2673 pursuant to which any such bonds or other indebtedness has been
 2674 or may be issued and pursuant to which any rights, revenues, or
 2675 other assets of the corporation are pledged or sold to secure

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

2681 | 4. Any such pledge or sale of assessments, revenues,
 2682 | contract rights, or other rights or assets of the corporation
 2683 | shall constitute a lien and security interest, or sale, as the
 2684 | case may be, that is immediately effective and attaches to such
 2685 | assessments, revenues, or contract rights or other rights or
 2686 | assets, whether or not imposed or collected at the time the
 2687 | pledge or sale is made. Any such pledge or sale is effective,
 2688 | valid, binding, and enforceable against the corporation or other
 2689 | entity making such pledge or sale, and valid and binding against
 2690 | and superior to any competing claims or obligations owed to any
 2691 | other person or entity, including policyholders in this state,
 2692 | asserting rights in any such assessments, revenues, or contract
 2693 | rights or other rights or assets to the extent set forth in and
 2694 | in accordance with the terms of the pledge or sale contained in
 2695 | the applicable financing documents, whether or not any such
 2696 | person or entity has notice of such pledge or sale and without
 2697 | the need for any physical delivery, recordation, filing, or
 2698 | other action.

2699 | 5. As long as the corporation has any bonds outstanding,
 2700 | the corporation may not file a voluntary petition under chapter

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

2708 6. If ordered by a court of competent jurisdiction, the
 2709 corporation may assume policies or otherwise provide coverage
 2710 for policyholders of an insurer placed in liquidation under
 2711 chapter 631, under such forms, rates, terms, and conditions as
 2712 the corporation deems appropriate, subject to approval by the
 2713 office.

2714 (x)1. The following records of the corporation are
 2715 confidential and exempt from the provisions of s. 119.07(1) and
 2716 s. 24(a), Art. I of the State Constitution:

2717 a. Underwriting files, except that a policyholder or an
 2718 applicant shall have access to his or her own underwriting
 2719 files. Confidential and exempt underwriting file records may
 2720 also be released to other governmental agencies upon written
 2721 request and demonstration of need; such records held by the
 2722 receiving agency remain confidential and exempt as provided
 2723 herein.

2724 b. Claims files, until termination of all litigation and
 2725 settlement of all claims arising out of the same incident,

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

2732 | c. Records obtained or generated by an internal auditor
2733 | pursuant to a routine audit, until the audit is completed, or if
2734 | the audit is conducted as part of an investigation, until the
2735 | investigation is closed or ceases to be active. An investigation
2736 | is considered "active" while the investigation is being
2737 | conducted with a reasonable, good faith belief that it could
2738 | lead to the filing of administrative, civil, or criminal
2739 | proceedings.

2740 | d. Matters reasonably encompassed in privileged attorney-
2741 | client communications.

2742 | e. Proprietary information licensed to the corporation
2743 | under contract and the contract provides for the confidentiality
2744 | of such proprietary information.

2745 | f. All information relating to the medical condition or
2746 | medical status of a corporation employee which is not relevant
2747 | to the employee's capacity to perform his or her duties, except
2748 | as otherwise provided in this paragraph. Information that is
2749 | exempt shall include, but is not limited to, information
2750 | relating to workers' compensation, insurance benefits, and

2751 retirement or disability benefits.

2752 g. Upon an employee's entrance into the employee
 2753 assistance program, a program to assist any employee who has a
 2754 behavioral or medical disorder, substance abuse problem, or
 2755 emotional difficulty that affects the employee's job
 2756 performance, all records relative to that participation shall be
 2757 confidential and exempt from the provisions of s. 119.07(1) and
 2758 s. 24(a), Art. I of the State Constitution, except as otherwise
 2759 provided in s. 112.0455(11).

2760 h. Information relating to negotiations for financing,
 2761 reinsurance, depopulation, or contractual services, until the
 2762 conclusion of the negotiations.

2763 i. Minutes of closed meetings regarding underwriting
 2764 files, and minutes of closed meetings regarding an open claims
 2765 file until termination of all litigation and settlement of all
 2766 claims with regard to that claim, except that information
 2767 otherwise confidential or exempt by law shall be redacted.

2768 2. If an authorized insurer is considering underwriting a
 2769 risk insured by the corporation, relevant underwriting files and
 2770 confidential claims files may be released to the insurer
 2771 provided the insurer agrees in writing, notarized and under
 2772 oath, to maintain the confidentiality of such files. If a file
 2773 is transferred to an insurer, that file is no longer a public
 2774 record because it is not held by an agency subject to the
 2775 provisions of the public records law. Underwriting files and

2776 confidential claims files may also be released to staff and the
 2777 board of governors of the market assistance plan established
 2778 pursuant to s. 627.3515, who must retain the confidentiality of
 2779 such files, except such files may be released to authorized
 2780 insurers that are considering assuming the risks to which the
 2781 files apply, provided the insurer agrees in writing, notarized
 2782 and under oath, to maintain the confidentiality of such files.
 2783 Finally, the corporation or the board or staff of the market
 2784 assistance plan may make the following information obtained from
 2785 underwriting files and confidential claims files available to an
 2786 entity that has obtained a permit to become an authorized
 2787 insurer, a reinsurer that may provide reinsurance under s.
 2788 624.610, a licensed reinsurance broker, a licensed rating
 2789 organization, a modeling company, a licensed surplus lines
 2790 agent, or a licensed general lines insurance agent: name,
 2791 address, and telephone number of the residential property owner
 2792 or insured; location of the risk; rating information; loss
 2793 history; and policy type. The receiving person must retain the
 2794 confidentiality of the information received and may use the
 2795 information only for the purposes of developing a take-out plan
 2796 or a rating plan to be submitted to the office for approval or
 2797 otherwise analyzing the underwriting of a risk or risks insured
 2798 by the corporation on behalf of the private insurance market. A
 2799 licensed surplus lines agent or a licensed general lines
 2800 insurance agent may not use such information for the direct

2801 solicitation of policyholders.

2802 3. A policyholder who has filed suit against the
2803 corporation has the right to discover the contents of his or her
2804 own claims file to the same extent that discovery of such
2805 contents would be available from a private insurer in litigation
2806 as provided by the Florida Rules of Civil Procedure, the Florida
2807 Evidence Code, and other applicable law. Pursuant to subpoena, a
2808 third party has the right to discover the contents of an
2809 insured's or applicant's underwriting or claims file to the same
2810 extent that discovery of such contents would be available from a
2811 private insurer by subpoena as provided by the Florida Rules of
2812 Civil Procedure, the Florida Evidence Code, and other applicable
2813 law, and subject to any confidentiality protections requested by
2814 the corporation and agreed to by the seeking party or ordered by
2815 the court. The corporation may release confidential underwriting
2816 and claims file contents and information as it deems necessary
2817 and appropriate to underwrite or service insurance policies and
2818 claims, subject to any confidentiality protections deemed
2819 necessary and appropriate by the corporation.

2820 4. Portions of meetings of the corporation are exempt from
2821 the provisions of s. 286.011 and s. 24(b), Art. I of the State
2822 Constitution wherein confidential underwriting files or
2823 confidential open claims files are discussed. All portions of
2824 corporation meetings which are closed to the public shall be
2825 recorded by a court reporter. The court reporter shall record

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

2836 | (y) It is the intent of the Legislature that the
 2837 | amendments to this subsection enacted in 2002 should, over time,
 2838 | reduce the probable maximum windstorm losses in the residual
 2839 | markets and the potential assessments to be levied on property
 2840 | insurers and policyholders statewide.

2841 | (z) In enacting the provisions of this section, the
 2842 | Legislature recognizes that both the Florida Windstorm
 2843 | Underwriting Association and the Residential Property and
 2844 | Casualty Joint Underwriting Association have entered into
 2845 | financing arrangements that obligate each entity to service its
 2846 | debts and maintain the capacity to repay funds secured under
 2847 | these financing arrangements. It is the intent of the
 2848 | Legislature that nothing in this section be construed to
 2849 | compromise, diminish, or interfere with the rights of creditors
 2850 | under such financing arrangements. It is further the intent of

2851 | the Legislature to preserve the obligations of the Florida
 2852 | Windstorm Underwriting Association and Residential Property and
 2853 | Casualty Joint Underwriting Association with regard to
 2854 | outstanding financing arrangements, with such obligations
 2855 | passing entirely and unchanged to the corporation and,
 2856 | specifically, to the Citizens ~~applicable~~ account of the
 2857 | corporation. So long as any bonds, notes, indebtedness, or other
 2858 | financing obligations of the Florida Windstorm Underwriting
 2859 | Association or the Residential Property and Casualty Joint
 2860 | Underwriting Association are outstanding, under the terms of the
 2861 | financing documents pertaining to them, the governing board of
 2862 | the corporation shall have and shall exercise the authority to
 2863 | levy, charge, collect, and receive all premiums, assessments,
 2864 | surcharges, charges, revenues, and receipts that the
 2865 | associations had authority to levy, charge, collect, or receive
 2866 | under the provisions of subsection (2) and this subsection,
 2867 | respectively, as they existed on January 1, 2002, to provide
 2868 | moneys, without exercise of the authority provided by this
 2869 | subsection, in at least the amounts, and by the times, as would
 2870 | be provided under those former provisions of subsection (2) or
 2871 | this subsection, respectively, so that the value, amount, and
 2872 | collectability of any assets, revenues, or revenue source
 2873 | pledged or committed to, or any lien thereon securing such
 2874 | outstanding bonds, notes, indebtedness, or other financing
 2875 | obligations will not be diminished, impaired, or adversely

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

2887 (aa) Except as otherwise provided in this paragraph, the
 2888 corporation shall require the securing and maintaining of flood
 2889 insurance as a condition of coverage of a personal lines
 2890 residential risk. The insured or applicant must execute a form
 2891 approved by the office affirming that flood insurance is not
 2892 provided by the corporation and that if flood insurance is not
 2893 secured by the applicant or insured from an insurer other than
 2894 the corporation and in addition to coverage by the corporation,
 2895 the risk will not be eligible for coverage by the corporation.
 2896 The corporation may deny coverage of a personal lines
 2897 residential risk to an applicant or insured who refuses to
 2898 secure and maintain flood insurance. The requirement to purchase
 2899 flood insurance shall be implemented as follows:

2900 1. Except as provided in subparagraphs 2. and 3., all

2901 personal lines residential policyholders must have flood
 2902 coverage in place for policies effective on or after:
 2903 a. January 1, 2024, for a structure that has a dwelling
 2904 replacement cost of \$600,000 or more.
 2905 b. January 1, 2025, for a structure that has a dwelling
 2906 replacement cost of \$500,000 or more.
 2907 c. January 1, 2026, for a structure that has a dwelling
 2908 replacement cost of \$400,000 or more.
 2909 d. January 1, 2027, for all other personal lines
 2910 residential property insured by the corporation.
 2911 2. All personal lines residential policyholders whose
 2912 property insured by the corporation is located within the
 2913 special flood hazard area defined by the Federal Emergency
 2914 Management Agency must have flood coverage in place:
 2915 a. At the time of initial policy issuance for all new
 2916 personal lines residential policies issued by the corporation on
 2917 or after April 1, 2023.
 2918 b. By the time of the policy renewal for all personal
 2919 lines residential policies renewing on or after July 1, 2023.
 2920 3. Policyholders are not required to purchase flood
 2921 insurance as a condition for maintaining the following policies
 2922 issued by the corporation:
 2923 a. Policies that do not provide coverage for the peril of
 2924 wind.
 2925 b. Policies that provide coverage under a condominium unit

2926 owners form.

2927

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

2932 (bb) A salaried employee of the corporation who performs
 2933 policy administration services subsequent to the effectuation of
 2934 a corporation policy is not required to be licensed as an agent
 2935 under the provisions of s. 626.112.

2936 (cc) There shall be no liability on the part of, and no
 2937 cause of action of any nature shall arise against, producing
 2938 agents of record of the corporation or employees of such agents
 2939 for insolvency of any take-out insurer.

2940 (dd) The assets of the corporation may be invested and
 2941 managed by the State Board of Administration.

2942 (ee) The office may establish a pilot program to offer
 2943 optional sinkhole coverage in one or more counties or other
 2944 territories of the corporation for the purpose of implementing
 2945 s. 627.706, as amended by s. 30, chapter 2007-1, Laws of
 2946 Florida. Under the pilot program, the corporation is not
 2947 required to issue a notice of nonrenewal to exclude sinkhole
 2948 coverage upon the renewal of existing policies, but may exclude
 2949 such coverage using a notice of coverage change.

2950 (ff) In establishing replacement costs for coverage on a

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

2956 1. A replacement cost valuation software that is
 2957 specifically designed for use in establishing insurance
 2958 replacement costs and that includes an itemized calculation of
 2959 the cost of reconstruction;

2960 2. A replacement cost valuation prepared by a certified or
 2961 licensed real estate appraiser under part II of chapter 475 that
 2962 is specifically formulated to establish insurance replacement
 2963 cost, rather than market value, and which includes an itemized
 2964 calculation of the cost of reconstruction; or

2965 3. A replacement cost valuation prepared by a general,
 2966 building, or residential contractor licensed under s. 489.113,
 2967 or a professional engineer licensed under s. 471.015, which
 2968 includes an itemized calculation of the total price of
 2969 reconstruction.

2970 (gg) The Office of Inspector General is established within
 2971 the corporation to provide a central point for coordination of
 2972 and responsibility for activities that promote accountability,
 2973 integrity, and efficiency. The office shall be headed by an
 2974 inspector general, which is a senior management position that
 2975 involves planning, coordinating, and performing activities

2976 assigned to and assumed by the inspector general for the
 2977 corporation.

2978 1. The inspector general shall be appointed by the
 2979 Financial Services Commission and may only be removed from
 2980 office by the commission. The inspector general shall be
 2981 appointed without regard to political affiliation.

2982 a. At a minimum, the inspector general must possess a
 2983 bachelor's degree from an accredited college or university and 8
 2984 years of professional experience related to the duties of an
 2985 inspector general as described in this paragraph, of which 5
 2986 years must have been at a supervisory level.

2987 b. The inspector general shall report to, and be under the
 2988 supervision of, the chair of the board of governors. The
 2989 executive director or corporation staff may not prevent or
 2990 prohibit the inspector general from initiating, carrying out, or
 2991 completing any audit, review, evaluation, study, or
 2992 investigation.

2993 2. The inspector general shall initiate, direct,
 2994 coordinate, participate in, and perform audits, reviews,
 2995 evaluations, studies, and investigations designed to assess
 2996 management practices; compliance with laws, rules, and policies;
 2997 and program effectiveness and efficiency. This includes:

2998 a. Conducting internal examinations; investigating
 2999 allegations of fraud, waste, abuse, malfeasance, mismanagement,
 3000 employee misconduct, or violations of corporation policies; and

3001 conducting any other investigations as directed by the Financial
 3002 Services Commission or as independently determined.

3003 b. Evaluating and recommending actions regarding security,
 3004 the ethical behavior of personnel and vendors, and compliance
 3005 with rules, laws, policies, and personnel matters; and rendering
 3006 ethics opinions.

3007 c. Evaluating personnel and administrative policy
 3008 compliance, management and operational matters, and human
 3009 resources-related matters.

3010 d. Evaluating the application of a corporation code of
 3011 ethics, providing reviews and recommendations on the design and
 3012 content of ethics-related policy training courses, educating
 3013 employees on the code and on appropriate conduct, and checking
 3014 for compliance.

3015 e. Evaluating the activities of the senior management team
 3016 and management's compliance with recommended solutions.

3017 f. Cooperating and coordinating activities with the chief
 3018 of internal audit.

3019 g. Maintaining records of investigations and discipline in
 3020 accordance with established policies, or as otherwise required.

3021 h. Supervising and directing the tasks and assignments of
 3022 the staff assigned to assist with the inspector general's
 3023 projects, including regular review and feedback regarding work
 3024 in progress and providing recommendations regarding relevant
 3025 training and staff development activities.

3026 i. Directing, planning, preparing, and presenting interim
 3027 and final reports and oral briefings which communicate the
 3028 results of studies, reviews, and investigations.

3029 j. Providing the executive director with independent and
 3030 objective assessments of programs and activities.

3031 k. Completing special projects, assignments, and other
 3032 duties as requested by the Financial Services Commission.

3033 l. Reporting expeditiously to the Department of Law
 3034 Enforcement or other law enforcement agencies, as appropriate,
 3035 whenever the inspector general has reasonable grounds to believe
 3036 there has been a violation of criminal law.

3037 (hh) The corporation shall prepare a report for each
 3038 calendar year outlining both the statewide average and county-
 3039 specific details of the loss ratio attributable to losses that
 3040 are not catastrophic losses for residential coverage provided by
 3041 the corporation, which information must be presented to the
 3042 office and available for public inspection on the Internet
 3043 website of the corporation by March 1 of the following calendar
 3044 year.

3045 (ii) The corporation shall revise the programs adopted
 3046 pursuant to sub-subparagraph (q)3.a. for personal lines
 3047 residential policies to maximize policyholder options and
 3048 encourage increased participation by insurers and agents. After
 3049 January 1, 2017, a policy may not be taken out of the
 3050 corporation unless the provisions of this paragraph are met.

3051 1. The corporation must publish a periodic schedule of
 3052 cycles during which an insurer may identify, and notify the
 3053 corporation of, policies that the insurer is requesting to take
 3054 out. A request must include a description of the coverage
 3055 offered and an estimated premium and must be submitted to the
 3056 corporation in a form and manner prescribed by the corporation.

3057 2. The corporation must maintain and make available to the
 3058 agent of record a consolidated list of all insurers requesting
 3059 to take out a policy. The list must include a description of the
 3060 coverage offered and the estimated premium for each take-out
 3061 request.

3062 3. If a policyholder receives a take-out offer from an
 3063 authorized insurer, the risk is no longer eligible for coverage
 3064 with the corporation unless the premium for coverage from the
 3065 authorized insurer is more than 20 percent greater than the
 3066 renewal premium for comparable coverage from the corporation
 3067 pursuant to sub-subparagraph (c)5.c. This subparagraph applies
 3068 to take-out offers that are part of an application to
 3069 participate in depopulation submitted to the office on or after
 3070 January 1, 2023. However, notwithstanding any other provision of
 3071 law, this sub-subparagraph does not apply to a policy that does
 3072 not cover a primary residence.

3073 4. The corporation must provide written notice to the
 3074 policyholder and the agent of record regarding all insurers
 3075 requesting to take out the policy. The notice must be in a

3076 | format prescribed by the corporation and include, for each take-
 3077 | out offer:

- 3078 | a. The amount of the estimated premium;
- 3079 | b. A description of the coverage; and
- 3080 | c. A comparison of the estimated premium and coverage
- 3081 | offered by the insurer to the estimated premium and coverage
- 3082 | provided by the corporation.

3083 | (jj) The corporation's budget allocations for the
 3084 | compensation of all corporation employees and any proposed raise
 3085 | for an individual employee exceeding 10 percent of that
 3086 | employee's current salary must be approved by the board of
 3087 | governors. The corporation must have an overall employee
 3088 | compensation plan approved by the board of governors.

3089 | (kk) A corporation policyholder making a claim for water
 3090 | damage against the corporation has the burden of proving that
 3091 | the damage was not caused by flooding.

3092 | (ll) The corporation may share its claims data with the
 3093 | National Insurance Crime Bureau, provided that the National
 3094 | Insurance Crime Bureau agrees to maintain the confidentiality of
 3095 | such documents as otherwise provided for in paragraph (x).

3096 | (mm)~~(ll)~~1. In addition to any other method of alternative
 3097 | dispute resolution authorized by state law, the corporation may
 3098 | adopt policy forms that provide for the resolution of disputes
 3099 | regarding its claim determinations, including disputes regarding
 3100 | coverage for, or the scope and value of, a claim, in a

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

3117 2. The corporation may contract with the division to
 3118 conduct proceedings to resolve disputes regarding its claim
 3119 determinations as may be provided for in the applicable policies
 3120 of insurance.

3121 (nn) ~~(mm)~~ The corporation may not determine that a risk is
 3122 ineligible for coverage with the corporation solely because such
 3123 risk has unrepaired damage caused by a covered loss that is the
 3124 subject of a claim that has been filed with the Florida
 3125 Insurance Guaranty Association. This paragraph applies to a risk

3126 | until the earlier of 24 months after the date the Florida
 3127 | Insurance Guaranty Association began servicing such claim or the
 3128 | Florida Insurance Guaranty Association closes the claim.

3129 | (7) TRADEMARKS, COPYRIGHTS, OR PATENTS.—Notwithstanding
 3130 | any other provision of law to the contrary, the corporation may,
 3131 | in its own name:

3132 | (a) Perform all things necessary to secure letters of
 3133 | patent, copyrights, or trademarks on any work products and
 3134 | enforce its rights therein.

3135 | (b) License, lease, assign, or otherwise give written
 3136 | consent to any person, firm, or corporation for the manufacture
 3137 | or use thereof, on a royalty basis or for such other
 3138 | consideration as the corporation deems proper.

3139 | (c) Take any action necessary, including legal action, to
 3140 | protect the manufacture or use thereof against improper or
 3141 | unlawful use or infringement.

3142 | (d) Enforce the collection of any sums due the corporation
 3143 | for the manufacture or use thereof by any other party.

3144 | (e) Sell any of the manufacture or use thereof and execute
 3145 | all instruments necessary to consummate any such sale.

3146 | (f) Do all other acts necessary and proper for the
 3147 | execution of powers and duties conferred upon the corporation in
 3148 | order to administer this paragraph.

3149 | Section 2. Subsections (3) and (5) and paragraphs (d),
 3150 | (e), and (f) of subsection (6) of section 627.3511, Florida

3151 Statutes, are amended to read:

3152 627.3511 Depopulation of Citizens Property Insurance
3153 Corporation.—

3154 (3) EXEMPTION FROM DEFICIT ASSESSMENTS.—

3155 ~~(a) The calculation of an insurer's assessment liability~~
3156 ~~under s. 627.351(6)(b)3.a. shall, for an insurer that in any~~
3157 ~~calendar year removes 50,000 or more risks from the Citizens~~
3158 ~~Property Insurance Corporation, either by issuance of a policy~~
3159 ~~upon expiration or cancellation of the corporation policy or by~~
3160 ~~assumption of the corporation's obligations with respect to in-~~
3161 ~~force policies, exclude such removed policies for the succeeding~~
3162 ~~3 years, as follows:~~

3163 ~~1. In the first year following removal of the risks, the~~
3164 ~~risks are excluded from the calculation to the extent of 100~~
3165 ~~percent.~~

3166 ~~2. In the second year following removal of the risks, the~~
3167 ~~risks are excluded from the calculation to the extent of 75~~
3168 ~~percent.~~

3169 ~~3. In the third year following removal of the risks, the~~
3170 ~~risks are excluded from the calculation to the extent of 50~~
3171 ~~percent.~~

3172
3173 ~~If the removal of risks is accomplished through assumption of~~
3174 ~~obligations with respect to in-force policies, the corporation~~
3175 ~~shall pay to the assuming insurer all unearned premium with~~

3176 ~~respect to such policies less any policy acquisition costs~~
 3177 ~~agreed to by the corporation and assuming insurer. The term~~
 3178 ~~"policy acquisition costs" is defined as costs of issuance of~~
 3179 ~~the policy by the corporation which includes agent commissions,~~
 3180 ~~servicing company fees, and premium tax. This paragraph does not~~
 3181 ~~apply to an insurer that, at any time within 5 years before~~
 3182 ~~removing the risks, had a market share in excess of 0.1 percent~~
 3183 ~~of the statewide aggregate gross direct written premium for any~~
 3184 ~~line of property insurance, or to an affiliate of such an~~
 3185 ~~insurer. This paragraph does not apply unless either at least 40~~
 3186 ~~percent of the risks removed from the corporation are located in~~
 3187 ~~Miami-Dade, Broward, and Palm Beach Counties, or at least 30~~
 3188 ~~percent of the risks removed from the corporation are located in~~
 3189 ~~such counties and an additional 50 percent of the risks removed~~
 3190 ~~from the corporation are located in other coastal counties.~~

3191 ~~(b) An insurer that first wrote personal lines residential~~
 3192 ~~property coverage in this state on or after July 1, 1994, is~~
 3193 ~~exempt from regular deficit assessments imposed pursuant to s.~~
 3194 ~~627.351(6)(b)3.a., but not emergency assessments collected from~~
 3195 ~~policyholders pursuant to s. 627.351(6)(b)3.e., of the Citizens~~
 3196 ~~Property Insurance Corporation until the earlier of the~~
 3197 ~~following:~~

3198 ~~1. The end of the calendar year in which it first wrote~~
 3199 ~~0.5 percent or more of the statewide aggregate direct written~~
 3200 ~~premium for any line of residential property coverage; or~~

3201 ~~2. December 31, 1997, or December 31 of the third year in~~
 3202 ~~which it wrote such coverage in this state, whichever is later.~~

3203 ~~(c) Other than an insurer that is exempt under paragraph~~
 3204 ~~(b), an insurer that in any calendar year increases its total~~
 3205 ~~structure exposure subject to wind coverage by 25 percent or~~
 3206 ~~more over its exposure for the preceding calendar year is, with~~
 3207 ~~respect to that year, exempt from deficit assessments imposed~~
 3208 ~~pursuant to s. 627.351(6)(b)3.a., but not emergency assessments~~
 3209 ~~collected from policyholders pursuant to s. 627.351(6)(b)3.e.,~~
 3210 ~~of the Citizens Property Insurance Corporation attributable to~~
 3211 ~~such increase in exposure.~~

3212 ~~(d)~~ Any exemption or credit from regular assessments
 3213 authorized by this section shall last no longer than 3 years
 3214 following the cancellation or expiration of the policy by the
 3215 corporation. With the approval of the office, the board may
 3216 extend such credits for an additional year if the insurer
 3217 guarantees an additional year of renewability for all policies
 3218 removed from the corporation, or for 2 additional years if the
 3219 insurer guarantees 2 additional years of renewability for all
 3220 policies so removed.

3221 (5) APPLICABILITY.—

3222 ~~(a)~~ The take-out bonus provided by subsection (2) applies
 3223 ~~and the exemption from assessment provided by paragraph (3)(a)~~
 3224 ~~apply~~ only if the corporation policy is replaced by a standard
 3225 policy including wind coverage or, if consistent with the

3226 insurer's underwriting rules filed with the office, a basic
 3227 policy including wind coverage; however, for risks located in
 3228 areas where coverage through the coastal account of the
 3229 corporation is available, the replacement policy need not
 3230 provide wind coverage. The insurer must renew the replacement
 3231 policy at approved rates on substantially similar terms for four
 3232 additional 1-year terms, unless canceled or not renewed by the
 3233 policyholder. If an insurer assumes the corporation's
 3234 obligations for a policy, it must issue a replacement policy for
 3235 a 1-year term upon expiration of the corporation policy and must
 3236 renew the replacement policy at approved rates on substantially
 3237 similar terms for four additional 1-year terms, unless canceled
 3238 or not renewed by the policyholder. For each replacement policy
 3239 canceled or nonrenewed by the insurer for any reason during the
 3240 5-year coverage period, the insurer must remove from the
 3241 corporation one additional policy covering a risk similar to the
 3242 risk covered by the canceled or nonrenewed policy. In addition,
 3243 the corporation must place the bonus moneys in escrow for 5
 3244 years; such moneys may be released from escrow only to pay
 3245 claims. If the policy is canceled or nonrenewed before the end
 3246 of the 5-year period, the amount of the take-out bonus must be
 3247 prorated for the time period the policy was insured. A take-out
 3248 bonus provided by subsection (2) or subsection (6) is not
 3249 premium income for purposes of taxes and assessments under the
 3250 Florida Insurance Code and remains the property of the

3251 corporation, subject to the prior security interest of the
 3252 insurer under the escrow agreement until it is released from
 3253 escrow; after it is released from escrow it is considered an
 3254 asset of the insurer and credited to the insurer's capital and
 3255 surplus.

3256 ~~(b) It is the intent of the Legislature that an insurer~~
 3257 ~~eligible for the exemption under paragraph (3) (a) establish a~~
 3258 ~~preference in appointment of agents for those agents who lose a~~
 3259 ~~substantial amount of business as a result of risks being~~
 3260 ~~removed from the corporation.~~

3261 (6) COMMERCIAL RESIDENTIAL TAKE-OUT PLANS.—

3262 ~~(d) The calculation of an insurer's regular assessment~~
 3263 ~~liability under s. 627.351(6) (b)3.a., but not emergency~~
 3264 ~~assessments collected from policyholders pursuant to s.~~
 3265 ~~627.351(6) (b)3.c., shall, with respect to commercial residential~~
 3266 ~~policies removed from the corporation under an approved take-out~~
 3267 ~~plan, exclude such removed policies for the succeeding 3 years,~~
 3268 ~~as follows:~~

3269 ~~1. In the first year following removal of the policies,~~
 3270 ~~the policies are excluded from the calculation to the extent of~~
 3271 ~~100 percent.~~

3272 ~~2. In the second year following removal of the policies,~~
 3273 ~~the policies are excluded from the calculation to the extent of~~
 3274 ~~75 percent.~~

3275 ~~3. In the third year following removal of the policies,~~

3276 ~~the policies are excluded from the calculation to the extent of~~
 3277 ~~50 percent.~~

3278 ~~(c) An insurer that first wrote commercial residential~~
 3279 ~~property coverage in this state on or after June 1, 1996, is~~
 3280 ~~exempt from regular assessments under s. 627.351(6)(b)3.a., but~~
 3281 ~~not emergency assessments collected from policyholders pursuant~~
 3282 ~~to s. 627.351(6)(b)3.e., with respect to commercial residential~~
 3283 ~~policies until the earlier of:~~

3284 ~~1. The end of the calendar year in which such insurer~~
 3285 ~~first wrote 0.5 percent or more of the statewide aggregate~~
 3286 ~~direct written premium for commercial residential property~~
 3287 ~~coverage; or~~

3288 ~~2. December 31 of the third year in which such insurer~~
 3289 ~~wrote commercial residential property coverage in this state.~~

3290 ~~(f) An insurer that is not otherwise exempt from regular~~
 3291 ~~assessments under s. 627.351(6)(b)3.a. with respect to~~
 3292 ~~commercial residential policies is, for any calendar year in~~
 3293 ~~which such insurer increased its total commercial residential~~
 3294 ~~hurricane exposure by 25 percent or more over its exposure for~~
 3295 ~~the preceding calendar year, exempt from regular assessments~~
 3296 ~~under s. 627.351(6)(b)3.a., but not emergency assessments~~
 3297 ~~collected from policyholders pursuant to s. 627.351(6)(b)3.e.,~~
 3298 ~~attributable to such increased exposure.~~

3299 Section 3. Subsections (5), (6), and (7) of section
 3300 627.3518, Florida Statutes, are amended to read:

3301 627.3518 Citizens Property Insurance Corporation
 3302 policyholder eligibility clearinghouse program.—The purpose of
 3303 this section is to provide a framework for the corporation to
 3304 implement a clearinghouse program by January 1, 2014.

3305 (5) Notwithstanding s. 627.3517, any applicant for new
 3306 coverage from the corporation is not eligible for coverage from
 3307 the corporation if provided an offer of coverage from an
 3308 authorized insurer through the program at a premium that is at
 3309 or below the eligibility threshold for applicants for new
 3310 coverage established in s. 627.351(6)(c)5.a. Whenever an offer
 3311 of coverage for a personal lines risk is received for a
 3312 policyholder of the corporation at renewal from an authorized
 3313 insurer through the program which is at or below the eligibility
 3314 threshold for policyholders of the corporation established in s.
 3315 627.351(6)(c)5.a., the risk is not eligible for coverage with
 3316 the corporation. In the event an offer of coverage for a new
 3317 applicant is received from an authorized insurer through the
 3318 program, and the premium offered exceeds the eligibility
 3319 threshold for applicants for new coverage established in s.
 3320 627.351(6)(c)5.a., the applicant or insured may elect to accept
 3321 such coverage, or may elect to accept or continue coverage with
 3322 the corporation. In the event an offer of coverage for a
 3323 personal lines risk is received from an authorized insurer at
 3324 renewal through the program, and the premium offered exceeds the
 3325 eligibility threshold for policyholders of the corporation

3326 established in s. 627.351(6)(c)5.a., the insured may elect to
 3327 accept such coverage, or may elect to accept or continue
 3328 coverage with the corporation. Section 627.351(6)(c)5.a.(I) does
 3329 not apply to an offer of coverage from an authorized insurer
 3330 obtained through the program. However, notwithstanding any other
 3331 provision of law, this subsection does not apply to a policy
 3332 that does not cover a primary residence. As used in this
 3333 subsection, the term "primary residence" has the same meaning as
 3334 in sub-subparagraph s. 627.351(6)(c)2.a.

3335 (6) Independent insurance agents submitting new
 3336 applications for coverage or that are the agent of record on a
 3337 renewal policy submitted to the program:

3338 (a) Are granted and must maintain ownership and the
 3339 exclusive use of expirations, records, or other written or
 3340 electronic information directly related to such applications or
 3341 renewals written through the corporation or through an insurer
 3342 participating in the program, notwithstanding s.
 3343 627.351(6)(c)5.a.(I)(B) and (II)(B). Such ownership is granted
 3344 for as long as the insured remains with the agency or until sold
 3345 or surrendered in writing by the agent. Contracts with the
 3346 corporation or required by the corporation must not amend,
 3347 modify, interfere with, or limit such rights of ownership. Such
 3348 expirations, records, or other written or electronic information
 3349 may be used to review an application, issue a policy, or for any
 3350 other purpose necessary for placing such business through the

3351 program.

3352 (b) May not be required to be appointed by any insurer

3353 participating in the program for policies written solely through

3354 the program, notwithstanding the provisions of s. 626.112.

3355 (c) May accept an appointment from any insurer

3356 participating in the program.

3357 (d) May enter into either a standard or limited agency

3358 agreement with the insurer, at the insurer's option.

3359

3360 Applicants ineligible for coverage in accordance with subsection

3361 (5) remain ineligible if their independent agent is unwilling or

3362 unable for any reason, including the failure of such agent to be

3363 licensed as a surplus lines agent, to enter into a standard or

3364 limited agency agreement with an insurer participating in the

3365 program.

3366 (7) Exclusive agents submitting new applications for

3367 coverage or that are the agent of record on a renewal policy

3368 submitted to the program:

3369 (a) Must maintain ownership and the exclusive use of

3370 expirations, records, or other written or electronic information

3371 directly related to such applications or renewals written

3372 through the corporation or through an insurer participating in

3373 the program, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and

3374 (II)(B). Contracts with the corporation or required by the

3375 corporation must not amend, modify, interfere with, or limit

3376 such rights of ownership. Such expirations, records, or other
 3377 written or electronic information may be used to review an
 3378 application, issue a policy, or for any other purpose necessary
 3379 for placing such business through the program.

3380 (b) May not be required to be appointed by any insurer
 3381 participating in the program for policies written solely through
 3382 the program, notwithstanding the provisions of s. 626.112.

3383 (c) Must only facilitate the placement of an offer of
 3384 coverage from an insurer whose limited servicing agreement is
 3385 approved by that exclusive agent's exclusive insurer.

3386 (d) May enter into a limited servicing agreement with the
 3387 insurer making an offer of coverage, and only after the
 3388 exclusive agent's insurer has approved the limited servicing
 3389 agreement terms. The exclusive agent's insurer must approve a
 3390 limited service agreement for the program for any insurer for
 3391 which it has approved a service agreement for other purposes.

3392
 3393 Applicants ineligible for coverage in accordance with subsection
 3394 (5) remain ineligible if their exclusive agent is unwilling or
 3395 unable for any reason, including the failure of such agent to be
 3396 licensed as a surplus lines agent, to enter into a standard or
 3397 limited agency agreement with an insurer making an offer of
 3398 coverage to that applicant. This subsection does not apply to an
 3399 authorized insurer that is an eligible surplus lines insurer.

3400 Section 4. Effective upon becoming law, paragraph (aa) of

3401 subsection (6) of section 627.351, Florida Statutes, is amended
 3402 to read:

3403 627.351 Insurance risk apportionment plans.—

3404 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

3405 (aa) Except as otherwise provided in this paragraph, the
 3406 corporation shall require the securing and maintaining of flood
 3407 insurance as a condition of coverage of a personal lines
 3408 residential risk. The insured or applicant must execute a form
 3409 approved by the office affirming that flood insurance is not
 3410 provided by the corporation and that if flood insurance is not
 3411 secured by the applicant or insured from an insurer other than
 3412 the corporation and in addition to coverage by the corporation,
 3413 the risk will not be eligible for coverage by the corporation.
 3414 The corporation may deny coverage of a personal lines
 3415 residential risk to an applicant or insured who refuses to
 3416 secure and maintain flood insurance. The requirement to purchase
 3417 flood insurance shall be implemented as follows:

3418 1. Except as provided in subparagraphs 2. and 3., all
 3419 personal lines residential policyholders must have flood
 3420 coverage in place for policies effective on or after:

3421 a. January 1, 2024, for a structure that has a dwelling
 3422 replacement cost of \$600,000 or more.

3423 b. January 1, 2025, for a structure that has a dwelling
 3424 replacement cost of \$500,000 or more.

3425 c. January 1, 2026, for a structure that has a dwelling

3426 replacement cost of \$400,000 or more.

3427 d. January 1, 2027, for all other personal lines
 3428 residential property insured by the corporation.

3429 2. All personal lines residential policyholders whose
 3430 property insured by the corporation is located within the
 3431 special flood hazard area defined by the Federal Emergency
 3432 Management Agency must have flood coverage in place:

3433 a. At the time of initial policy issuance for all new
 3434 personal lines residential policies issued by the corporation on
 3435 or after April 1, 2023.

3436 b. By the time of the policy renewal for all personal
 3437 lines residential policies renewing on or after July 1, 2023.

3438 3. Policyholders are not required to purchase flood
 3439 insurance as a condition for maintaining the following policies
 3440 issued by the corporation:

3441 a. Policies that do not provide coverage for the peril of
 3442 wind.

3443 b. Policies that provide coverage under a condominium unit
 3444 owners form.

3445
 3446 The flood insurance required under this paragraph must meet, at
 3447 a minimum, the dwelling coverage available from the National
 3448 Flood Insurance Program or the requirements of subparagraphs s.
 3449 627.715(1) (a)1., 2., and 3.

3450 Section 5. Except as otherwise expressly provided in this

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ORIGINAL

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3451 | act and except for this section, which shall take effect upon
3452 | this act becoming a law, this act shall take effect July 1,
3453 | 2024.