

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

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

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

72

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

74

75 Section 1. Subsection (7) of section 627.351, Florida

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

79 627.351 Insurance risk apportionment plans.—

80 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

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

101 recovery and repayment of any deferred assessments.

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

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

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

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

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

150 | (IV) A company which is a member of a group of companies

151 under common management may elect to have its credits applied on
 152 a group basis, and any company or group may elect to have its
 153 credits applied to any other company or group.

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

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

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

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

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

201 the Legislature to provide a means by which assessment
 202 liabilities may be amortized over a period of years.

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

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

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

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

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

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

276 that year.

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

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

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

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

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

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

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

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

374 b. It is the intent of the Legislature that the rates for
 375 coverage provided by the association be actuarially sound and

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

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

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

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

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

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

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

425 (I) Pay to the producing agent of record of the policy,

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

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

435
 436 If the producing agent is unwilling or unable to accept
 437 appointment, the new insurer shall pay the agent in accordance
 438 with sub-sub-subparagraph (I). Subject to the provisions of s.
 439 627.3517, the policies issued by the association must provide
 440 that if the association obtains an offer from an authorized
 441 insurer to cover the risk at its approved rates under either a
 442 standard policy including wind coverage or, if consistent with
 443 the insurer's underwriting rules as filed with the department, a
 444 basic policy including wind coverage, the risk is no longer
 445 eligible for coverage through the association. Upon termination
 446 of eligibility, the association shall provide written notice to
 447 the policyholder and agent of record stating that the
 448 association policy must be canceled as of 60 days after the date
 449 of the notice because of the offer of coverage from an
 450 authorized insurer. Other provisions of the insurance code

451 relating to cancellation and notice of cancellation do not apply
 452 to actions under this sub-subparagraph.

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

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

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

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

471 6.a. The plan of operation may authorize the formation of
 472 a private nonprofit corporation, a private nonprofit
 473 unincorporated association, a partnership, a trust, a limited
 474 liability company, or a nonprofit mutual company which may be
 475 empowered, among other things, to borrow money by issuing bonds

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

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

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

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

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

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

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

551 similar proceeding against the association under the laws of
 552 this state or any other applicable laws.

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

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

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

576 | bonds or indebtedness, together with the payment of interest on
577 | such bonds or such indebtedness, or the payment of any other
578 | obligation of the association related to such bonds or
579 | indebtedness.

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

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

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

606 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

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

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

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

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

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

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

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

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

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

695 ~~a.d. Effective January 1, 2017, a structure that has a~~
696 ~~dwelling replacement cost of \$700,000 or more, or a single~~
697 ~~condominium unit that has a combined dwelling and contents~~
698 ~~replacement cost of \$700,000 or more, is not eligible for~~
699 ~~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 b. The requirements of sub-subparagraph a. ~~sub-~~
 703 ~~subparagraphs b.-d.~~ do not apply in counties where the office
 704 determines there is not a reasonable degree of competition. In
 705 such counties a personal lines residential structure that has a
 706 dwelling replacement cost of less than \$1 million, or a single
 707 condominium unit that has a combined dwelling and contents
 708 replacement cost of less than \$1 million, is eligible for
 709 coverage by the corporation.

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

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

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

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

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

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

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

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

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

773 ~~b.(II)~~ A ~~commercial lines account for~~ Commercial
 774 residential and commercial nonresidential policies that provide
 775 ~~issued by the corporation which provides~~ coverage for basic

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

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

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

826 Underwriting Association, as those areas were defined on January
 827 1, 2002;

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

833 (III) Commercial residential wind-only policies;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

925 ~~(II) Exceeds 2 percent of the aggregate statewide direct~~

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

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

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

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

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

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

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

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

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

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

1047 ~~e.g.~~ As used in this subsection and for purposes of any
 1048 deficit incurred on or after January 25, 2007, the term "subject
 1049 lines of business" means insurance written by assessable
 1050 insurers or procured by assessable insureds for all property and

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

1063 ~~f.h.~~ The Florida Surplus Lines Service Office shall
 1064 annually determine ~~annually~~ the aggregate statewide written
 1065 premium in subject lines of business procured by assessable
 1066 insureds and report that information to the corporation in a
 1067 form and at a time the corporation specifies to ensure that the
 1068 corporation can meet the requirements of this subsection and the
 1069 corporation's financing obligations.

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

1076 the corporation.

1077 ~~j. Upon determination by the board of governors that an~~
 1078 ~~account has a projected deficit, the board shall levy a Citizens~~
 1079 ~~policyholder surcharge against all policyholders of the~~
 1080 ~~corporation.~~

1081 ~~(I) The surcharge shall be levied as a uniform percentage~~
 1082 ~~of the premium for the policy of up to 15 percent of such~~
 1083 ~~premium, which funds shall be used to offset the deficit.~~

1084 ~~(II) The surcharge is payable upon cancellation or~~
 1085 ~~termination of the policy, upon renewal of the policy, or upon~~
 1086 ~~issuance of a new policy by the corporation within the first 12~~
 1087 ~~months after the date of the levy or the period of time~~
 1088 ~~necessary to fully collect the surcharge amount.~~

1089 ~~(III) The corporation may not levy any regular assessments~~
 1090 ~~under paragraph (q) pursuant to sub-subparagraph a. or sub-~~
 1091 ~~subparagraph b. with respect to a particular year's deficit~~
 1092 ~~until the corporation has first levied the full amount of the~~
 1093 ~~surcharge authorized by this sub-subparagraph.~~

1094 ~~(IV) The surcharge is not considered premium and is not~~
 1095 ~~subject to commissions, fees, or premium taxes. However, failure~~
 1096 ~~to pay the surcharge shall be treated as failure to pay premium.~~

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

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

1106 ~~4. The Citizens account, if established by the corporation~~
 1107 ~~pursuant to sub-subparagraph 2.b., is authorized to provide:~~

1108 ~~a. Personal residential policies that provide~~
 1109 ~~comprehensive, multiperil coverage on risks that are not located~~
 1110 ~~in areas eligible for coverage by the Florida Windstorm~~
 1111 ~~Underwriting Association, as those areas were defined on January~~
 1112 ~~1, 2002, and for policies that do not provide coverage for the~~
 1113 ~~peril of wind on risks that are located in such areas;~~

1114 ~~b. Commercial residential and commercial nonresidential~~
 1115 ~~policies that provide coverage for basic property perils on~~
 1116 ~~risks that are not located in areas eligible for coverage by the~~
 1117 ~~Florida Windstorm Underwriting Association, as those areas were~~
 1118 ~~defined on January 1, 2002, and for policies that do not provide~~
 1119 ~~coverage for the peril of wind on risks that are located in such~~
 1120 ~~areas; and~~

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

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

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

1176 ~~Government property.~~

1177 ~~5. With respect to a deficit in the Citizens account:~~

1178 ~~a. Upon a determination by the board of governors that the~~

1179 ~~Citizens account has a projected deficit, the board shall levy a~~

1180 ~~Citizens policyholder surcharge against all policyholders of the~~

1181 ~~corporation.~~

1182 ~~(I) The surcharge shall be levied as a uniform percentage~~

1183 ~~of the premium for the policy of up to 15 percent of such~~

1184 ~~premium, which funds shall be used to offset the deficit.~~

1185 ~~(II) The surcharge is payable upon cancellation or~~

1186 ~~termination of the policy, upon renewal of the policy, or upon~~

1187 ~~issuance of a new policy by the corporation within the first 12~~

1188 ~~months after the date of the levy or the period of time~~

1189 ~~necessary to fully collect the surcharge amount.~~

1190 ~~(III) The surcharge is not considered premium and is not~~

1191 ~~subject to commissions, fees, or premium taxes. However, failure~~

1192 ~~to pay the surcharge shall be treated as failure to pay premium.~~

1193 ~~b. After accounting for the Citizens policyholder~~

1194 ~~surcharge imposed under sub-subparagraph a., the remaining~~

1195 ~~projected deficit incurred in the Citizens account in a~~

1196 ~~particular calendar year shall be recovered through emergency~~

1197 ~~assessments under sub-subparagraph c.~~

1198 ~~e. Upon a determination by the board of governors that a~~

1199 ~~projected deficit in the Citizens account exceeds the amount~~

1200 ~~that is expected to be recovered through surcharges under sub-~~

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

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

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

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

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

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

1284 ~~f. The Florida Surplus Lines Service Office shall annually~~
 1285 ~~determine the aggregate statewide written premium in subject~~
 1286 ~~lines of business procured by assessable insureds and report~~
 1287 ~~that information to the corporation in a form and at a time the~~
 1288 ~~corporation specifies to ensure that the corporation can meet~~
 1289 ~~the requirements of this subsection and the corporation's~~
 1290 ~~financing obligations.~~

1291 ~~g. The Florida Surplus Lines Service Office shall verify~~
 1292 ~~the proper application by surplus lines agents of assessment~~
 1293 ~~percentages for emergency assessments levied under this~~
 1294 ~~subparagraph on assessable insureds and assist the corporation~~
 1295 ~~in ensuring the accurate, timely collection and payment of~~
 1296 ~~assessments by surplus lines agents as required by the~~
 1297 ~~corporation.~~

1298 ~~h. If the amount of any assessments or surcharges~~
 1299 ~~collected from corporation policyholders, assessable insurers or~~
 1300 ~~their policyholders, or assessable insureds exceeds the amount~~

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

1307 (c) The corporation's plan of operation:

1308 1. Must provide for adoption of residential property and
 1309 casualty insurance policy forms and commercial residential and
 1310 nonresidential property insurance forms, which must be approved
 1311 by the office before use. The corporation shall adopt the
 1312 following policy forms:

1313 a. Standard personal lines policy forms that are
 1314 comprehensive multiperil policies providing full coverage of a
 1315 residential property equivalent to the coverage provided in the
 1316 private insurance market under an HO-3, HO-4, or HO-6 policy.

1317 b. Basic personal lines policy forms that are policies
 1318 similar to an HO-8 policy or a dwelling fire policy that provide
 1319 coverage meeting the requirements of the secondary mortgage
 1320 market, but which is more limited than the coverage under a
 1321 standard policy.

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

1326 market.

1327 d. Personal lines and commercial lines residential

1328 property insurance forms that cover the peril of wind only. The

1329 forms are applicable only to residential properties located in

1330 areas eligible for coverage by the Florida Windstorm

1331 Underwriting Association, as those areas were defined on January

1332 1, 2002.

1333 e. Commercial lines nonresidential property insurance

1334 forms that cover the peril of wind only. The forms are

1335 applicable only to nonresidential properties located in areas

1336 eligible for coverage by the Florida Windstorm Underwriting

1337 Association, as those areas were defined on January 1, 2002.

1338 f. The corporation may adopt variations of the policy

1339 forms listed in sub-subparagraphs a.-e. which contain more

1340 restrictive coverage.

1341 g. The corporation shall offer a basic personal lines

1342 policy similar to an HO-8 policy with dwelling repair based on

1343 common construction materials and methods.

1344 2. Must provide that the corporation adopt a program in

1345 which the corporation and authorized insurers enter into quota

1346 share primary insurance agreements for hurricane coverage, as

1347 defined in s. 627.4025(2)(a), for eligible risks, and adopt

1348 property insurance forms for eligible risks which cover the

1349 peril of wind only.

1350 a. As used in this subsection, the term:

1351 (I) "Approved surplus lines insurer" means an eligible
 1352 surplus lines insurer:
 1353 (A) That has a financial strength rating of "A" or higher
 1354 from A.M. Best Company;
 1355 (B) That has a personal lines residential risk program
 1356 that is managed by a Florida resident surplus lines broker; and
 1357 (C) That offers coverage to applicants for new coverage
 1358 from the corporation or current policyholders of the corporation
 1359 through a take-out plan approved by the office.
 1360 (III) "Primary residence" means the dwelling that is the
 1361 policyholder's primary home or is a rental property that is the
 1362 primary home of the tenant, and which the policyholder or tenant
 1363 occupies for more than 9 months of each year.
 1364 (IV)~~(I)~~ "Quota share primary insurance" means an
 1365 arrangement in which the primary hurricane coverage of an
 1366 eligible risk is provided in specified percentages by the
 1367 corporation and an authorized insurer. The corporation and
 1368 authorized insurer are each solely responsible for a specified
 1369 percentage of hurricane coverage of an eligible risk as set
 1370 forth in a quota share primary insurance agreement between the
 1371 corporation and an authorized insurer and the insurance
 1372 contract. The responsibility of the corporation or authorized
 1373 insurer to pay its specified percentage of hurricane losses of
 1374 an eligible risk, as set forth in the agreement, may not be
 1375 altered by the inability of the other party to pay its specified

1376 percentage of losses. Eligible risks that are provided hurricane
 1377 coverage through a quota share primary insurance arrangement
 1378 must be provided policy forms that set forth the obligations of
 1379 the corporation and authorized insurer under the arrangement,
 1380 clearly specify the percentages of quota share primary insurance
 1381 provided by the corporation and authorized insurer, and
 1382 conspicuously and clearly state that the authorized insurer and
 1383 the corporation may not be held responsible beyond their
 1384 specified percentage of coverage of hurricane losses.

1385 (II) "Eligible risks" means personal lines residential and
 1386 commercial lines residential risks that meet the underwriting
 1387 criteria of the corporation and are located in areas that were
 1388 eligible for coverage by the Florida Windstorm Underwriting
 1389 Association on January 1, 2002.

1390 b. The corporation may enter into quota share primary
 1391 insurance agreements with authorized insurers at corporation
 1392 coverage levels of 90 percent and 50 percent.

1393 c. If the corporation determines that additional coverage
 1394 levels are necessary to maximize participation in quota share
 1395 primary insurance agreements by authorized insurers, the
 1396 corporation may establish additional coverage levels. However,
 1397 the corporation's quota share primary insurance coverage level
 1398 may not exceed 90 percent.

1399 d. Any quota share primary insurance agreement entered
 1400 into between an authorized insurer and the corporation must

1401 provide for a uniform specified percentage of coverage of
 1402 hurricane losses, by county or territory as set forth by the
 1403 corporation board, for all eligible risks of the authorized
 1404 insurer covered under the agreement.

1405 e. Any quota share primary insurance agreement entered
 1406 into between an authorized insurer and the corporation is
 1407 subject to review and approval by the office. However, such
 1408 agreement shall be authorized only as to insurance contracts
 1409 entered into between an authorized insurer and an insured who is
 1410 already insured by the corporation for wind coverage.

1411 f. For all eligible risks covered under quota share
 1412 primary insurance agreements, the exposure and coverage levels
 1413 for both the corporation and authorized insurers shall be
 1414 reported by the corporation to the Florida Hurricane Catastrophe
 1415 Fund. For all policies of eligible risks covered under such
 1416 agreements, the corporation and the authorized insurer must
 1417 maintain complete and accurate records for the purpose of
 1418 exposure and loss reimbursement audits as required by fund
 1419 rules. The corporation and the authorized insurer shall each
 1420 maintain duplicate copies of policy declaration pages and
 1421 supporting claims documents.

1422 g. The corporation board shall establish in its plan of
 1423 operation standards for quota share agreements which ensure that
 1424 there is no discriminatory application among insurers as to the
 1425 terms of the agreements, pricing of the agreements, incentive

1426 provisions if any, and consideration paid for servicing policies
 1427 or adjusting claims.

1428 h. The quota share primary insurance agreement between the
 1429 corporation and an authorized insurer must set forth the
 1430 specific terms under which coverage is provided, including, but
 1431 not limited to, the sale and servicing of policies issued under
 1432 the agreement by the insurance agent of the authorized insurer
 1433 producing the business, the reporting of information concerning
 1434 eligible risks, the payment of premium to the corporation, and
 1435 arrangements for the adjustment and payment of hurricane claims
 1436 incurred on eligible risks by the claims adjuster and personnel
 1437 of the authorized insurer. Entering into a quota sharing
 1438 insurance agreement between the corporation and an authorized
 1439 insurer is voluntary and at the discretion of the authorized
 1440 insurer.

1441 3. May provide that the corporation may employ or
 1442 otherwise contract with individuals or other entities to provide
 1443 administrative or professional services that may be appropriate
 1444 to effectuate the plan. The corporation may borrow funds by
 1445 issuing bonds or by incurring other indebtedness, and shall have
 1446 other powers reasonably necessary to effectuate the requirements
 1447 of this subsection, including, without limitation, the power to
 1448 issue bonds and incur other indebtedness in order to refinance
 1449 outstanding bonds or other indebtedness. The corporation may
 1450 seek judicial validation of its bonds or other indebtedness

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

1472 4. Must require that the corporation operate subject to
 1473 the supervision and approval of a board of governors consisting
 1474 of nine individuals who are residents of this state and who are
 1475 from different geographical areas of the state, one of whom is

1476 appointed by the Governor and serves solely to advocate on
 1477 behalf of the consumer. The appointment of a consumer
 1478 representative by the Governor is deemed to be within the scope
 1479 of the exemption provided in s. 112.313(7) (b) and is in addition
 1480 to the appointments authorized under sub-subparagraph a.

1481 a. The Governor, the Chief Financial Officer, the
 1482 President of the Senate, and the Speaker of the House of
 1483 Representatives shall each appoint two members of the board. At
 1484 least one of the two members appointed by each appointing
 1485 officer must have demonstrated expertise in insurance and be
 1486 deemed to be within the scope of the exemption provided in s.
 1487 112.313(7) (b). The Chief Financial Officer shall designate one
 1488 of the appointees as chair. All board members serve at the
 1489 pleasure of the appointing officer. All members of the board are
 1490 subject to removal at will by the officers who appointed them.
 1491 All board members, including the chair, must be appointed to
 1492 serve for 3-year terms beginning annually on a date designated
 1493 by the plan. However, for the first term beginning on or after
 1494 July 1, 2009, each appointing officer shall appoint one member
 1495 of the board for a 2-year term and one member for a 3-year term.
 1496 A board vacancy shall be filled for the unexpired term by the
 1497 appointing officer. The Chief Financial Officer shall appoint a
 1498 technical advisory group to provide information and advice to
 1499 the board in connection with the board's duties under this
 1500 subsection. The executive director and senior managers of the

1501 corporation shall be engaged by the board and serve at the
 1502 pleasure of the board. Any executive director appointed on or
 1503 after July 1, 2006, is subject to confirmation by the Senate.
 1504 The executive director is responsible for employing other staff
 1505 as the corporation may require, subject to review and
 1506 concurrence by the board.

1507 b. The board shall create a Market Accountability Advisory
 1508 Committee to assist the corporation in developing awareness of
 1509 its rates and its customer and agent service levels in
 1510 relationship to the voluntary market insurers writing similar
 1511 coverage.

1512 (I) The members of the advisory committee consist of the
 1513 following 11 persons, one of whom must be elected chair by the
 1514 members of the committee: four representatives, one appointed by
 1515 the Florida Association of Insurance Agents, one by the Florida
 1516 Association of Insurance and Financial Advisors, one by the
 1517 Professional Insurance Agents of Florida, and one by the Latin
 1518 American Association of Insurance Agencies; three
 1519 representatives appointed by the insurers with the three highest
 1520 voluntary market share of residential property insurance
 1521 business in the state; one representative from the Office of
 1522 Insurance Regulation; one consumer appointed by the board who is
 1523 insured by the corporation at the time of appointment to the
 1524 committee; one representative appointed by the Florida
 1525 Association of Realtors; and one representative appointed by the

1526 Florida Bankers Association. All members shall be appointed to
 1527 3-year terms and may serve for consecutive terms.

1528 (II) The committee shall report to the corporation at each
 1529 board meeting on insurance market issues which may include rates
 1530 and rate competition with the voluntary market; service,
 1531 including policy issuance, claims processing, and general
 1532 responsiveness to policyholders, applicants, and agents; and
 1533 matters relating to depopulation.

1534 5. Must provide a procedure for determining the
 1535 eligibility of a risk for coverage, as follows:

1536 a. Subject to s. 627.3517, with respect to personal lines
 1537 residential risks that are primary residences, if the risk is
 1538 offered coverage from an authorized insurer at the insurer's
 1539 approved rate under a standard policy including wind coverage
 1540 or, if consistent with the insurer's underwriting rules as filed
 1541 with the office, a basic policy including wind coverage, for a
 1542 new application to the corporation for coverage, the risk is not
 1543 eligible for any policy issued by the corporation unless the
 1544 premium for coverage from the authorized insurer is more than 20
 1545 percent greater than the premium for comparable coverage from
 1546 the corporation. Whenever an offer of coverage for a personal
 1547 lines residential risk that is a primary residence is received
 1548 for a policyholder of the corporation at renewal from an
 1549 authorized insurer, if the offer is equal to or less than the
 1550 corporation's renewal premium for comparable coverage, the risk

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

1573 (I) If the risk accepts an offer of coverage through the
 1574 market assistance plan or through a mechanism established by the
 1575 corporation other than a plan established by s. 627.3518, before

1576 a policy is issued to the risk by the corporation or during the
 1577 first 30 days of coverage by the corporation, and the producing
 1578 agent who submitted the application to the plan or to the
 1579 corporation is not currently appointed by the insurer, the
 1580 insurer shall:

1581 (A) Pay to the producing agent of record of the policy for
 1582 the first year, an amount that is the greater of the insurer's
 1583 usual and customary commission for the type of policy written or
 1584 a fee equal to the usual and customary commission of the
 1585 corporation; or

1586 (B) Offer to allow the producing agent of record of the
 1587 policy to continue servicing the policy for at least 1 year and
 1588 offer to pay the agent the greater of the insurer's or the
 1589 corporation's usual and customary commission for the type of
 1590 policy written.

1591
 1592 If the producing agent is unwilling or unable to accept
 1593 appointment, the new insurer shall pay the agent in accordance
 1594 with sub-sub-sub-subparagraph (A).

1595 (II) If the corporation enters into a contractual
 1596 agreement for a take-out plan, the producing agent of record of
 1597 the corporation policy is entitled to retain any unearned
 1598 commission on the policy, and the insurer shall:

1599 (A) Pay to the producing agent of record, for the first
 1600 year, an amount that is the greater of the insurer's usual and

1601 customary commission for the type of policy written or a fee
 1602 equal to the usual and customary commission of the corporation;
 1603 or

1604 (B) Offer to allow the producing agent of record to
 1605 continue servicing the policy for at least 1 year and offer to
 1606 pay the agent the greater of the insurer's or the corporation's
 1607 usual and customary commission for the type of policy written.
 1608

1609 If the producing agent is unwilling or unable to accept
 1610 appointment, the new insurer shall pay the agent in accordance
 1611 with sub-sub-sub-subparagraph (A).

1612 b. With respect to commercial lines residential risks, for
 1613 a new application to the corporation for coverage, if the risk
 1614 is offered coverage under a policy including wind coverage from
 1615 an authorized insurer at its approved rate, the risk is not
 1616 eligible for a policy issued by the corporation unless the
 1617 premium for coverage from the authorized insurer is more than 20
 1618 percent greater than the premium for comparable coverage from
 1619 the corporation. Whenever an offer of coverage for a commercial
 1620 lines residential risk is received for a policyholder of the
 1621 corporation at renewal from an authorized insurer, the risk is
 1622 not eligible for coverage with the corporation unless the
 1623 premium for coverage from the authorized insurer is more than 20
 1624 percent greater than the corporation's renewal premium for
 1625 comparable coverage. If the risk is not able to obtain any such

1626 offer, the risk is eligible for a policy including wind coverage
 1627 issued by the corporation. A policyholder removed from the
 1628 corporation through an assumption agreement remains eligible for
 1629 coverage from the corporation until the end of the policy term.
 1630 However, any policy removed from the corporation through an
 1631 assumption agreement remains on the corporation's policy forms
 1632 through the end of the policy term.

1633 (I) If the risk accepts an offer of coverage through the
 1634 market assistance plan or through a mechanism established by the
 1635 corporation other than a plan established by s. 627.3518, before
 1636 a policy is issued to the risk by the corporation or during the
 1637 first 30 days of coverage by the corporation, and the producing
 1638 agent who submitted the application to the plan or the
 1639 corporation is not currently appointed by the insurer, the
 1640 insurer shall:

1641 (A) Pay to the producing agent of record of the policy,
 1642 for the first year, an amount that is the greater of the
 1643 insurer's usual and customary commission for the type of policy
 1644 written or a fee equal to the usual and customary commission of
 1645 the corporation; or

1646 (B) Offer to allow the producing agent of record of the
 1647 policy to continue servicing the policy for at least 1 year and
 1648 offer to pay the agent the greater of the insurer's or the
 1649 corporation's usual and customary commission for the type of
 1650 policy written.

1651
 1652 If the producing agent is unwilling or unable to accept
 1653 appointment, the new insurer shall pay the agent in accordance
 1654 with sub-sub-sub-subparagraph (A).

1655 (II) If the corporation enters into a contractual
 1656 agreement for a take-out plan, the producing agent of record of
 1657 the corporation policy is entitled to retain any unearned
 1658 commission on the policy, and the insurer shall:

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

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

1668
 1669 If the producing agent is unwilling or unable to accept
 1670 appointment, the new insurer shall pay the agent in accordance
 1671 with sub-sub-sub-subparagraph (A).

1672 c. For purposes of determining comparable coverage under
 1673 sub-subparagraphs a. and b., the comparison must be based on
 1674 those forms and coverages that are reasonably comparable. The
 1675 corporation may rely on a determination of comparable coverage

1676 and premium made by the producing agent who submits the
 1677 application to the corporation, made in the agent's capacity as
 1678 the corporation's agent. For purposes of comparing the premium
 1679 for comparable coverage under sub-subparagraphs a. and b.,
 1680 premium includes any surcharge or assessment that is actually
 1681 applied to such policy. A comparison may be made solely of the
 1682 premium with respect to the main building or structure only on
 1683 the following basis: the same Coverage A or other building
 1684 limits; the same percentage hurricane deductible that applies on
 1685 an annual basis or that applies to each hurricane for commercial
 1686 residential property; the same percentage of ordinance and law
 1687 coverage, if the same limit is offered by both the corporation
 1688 and the authorized insurer; the same mitigation credits, to the
 1689 extent the same types of credits are offered both by the
 1690 corporation and the authorized insurer; the same method for loss
 1691 payment, such as replacement cost or actual cash value, if the
 1692 same method is offered both by the corporation and the
 1693 authorized insurer in accordance with underwriting rules; and
 1694 any other form or coverage that is reasonably comparable as
 1695 determined by the board. If an application is submitted to the
 1696 corporation for wind-only coverage on a risk that is located in
 1697 an area eligible for coverage by the Florida Windstorm
 1698 Underwriting Association, as that area was defined on January 1,
 1699 2002, the premium for the corporation's wind-only policy plus
 1700 the premium for the ex-wind policy that is offered by an

1701 authorized insurer to the applicant must be compared to the
 1702 premium for multiperil coverage offered by an authorized
 1703 insurer, subject to the standards for comparison specified in
 1704 this subparagraph. If the corporation or the applicant requests
 1705 from the authorized insurer a breakdown of the premium of the
 1706 offer by types of coverage so that a comparison may be made by
 1707 the corporation or its agent and the authorized insurer refuses
 1708 or is unable to provide such information, the corporation may
 1709 treat the offer as not being an offer of coverage from an
 1710 authorized insurer at the insurer's approved rate. However,
 1711 notwithstanding any other provision of law, this sub-
 1712 subparagraph does not apply to a policy that does not cover a
 1713 primary residence.

1714 d. Subject to s. 627.3517, with respect to personal lines
 1715 residential risks that are not primary residences, if the risk
 1716 is offered coverage from an authorized insurer at the insurer's
 1717 approved rate or from an approved surplus lines insurer at the
 1718 rate approved by the office as part of such surplus lines
 1719 insurer's take-out plan for a new application to the corporation
 1720 for coverage, the risk is not eligible for any policy issued by
 1721 the corporation for three years following such offer for
 1722 coverage. For policies that renew on or after July 1, 2024,
 1723 whenever an offer of coverage for a personal lines residential
 1724 risk that is not a primary residence is received for a
 1725 policyholder of the corporation at renewal from an authorized

1726 insurer at the insurer's approved rate or an approved surplus
 1727 lines insurer at the rate approved by the office as part of such
 1728 insurer's take-out plan, the risk is not eligible for coverage
 1729 with the corporation for a period of three years following such
 1730 offer for coverage. If the risk is not able to obtain such
 1731 offer, the risk is eligible for a standard policy including wind
 1732 coverage or a basic policy including wind coverage issued by the
 1733 corporation. If the risk could not be insured under a standard
 1734 policy including wind coverage regardless of market conditions,
 1735 the risk is eligible for a basic policy including wind coverage
 1736 unless rejected under subparagraph 8. The corporation shall
 1737 determine the type of policy to be provided on the basis of
 1738 objective standards specified in the underwriting manual and
 1739 based on generally accepted underwriting practices. A
 1740 policyholder removed from the corporation through an assumption
 1741 agreement does not remain eligible for coverage from the
 1742 corporation after the end of the policy term for a period.
 1743 However, any policy removed from the corporation through an
 1744 assumption agreement remains on the corporation's policy forms
 1745 through the end of the policy term.

1746 (I) If the risk accepts an offer of coverage through the
 1747 market assistance plan or through a mechanism established by the
 1748 corporation other than a plan established by s. 627.3518, before
 1749 a policy is issued to the risk by the corporation or during the
 1750 first 30 days of coverage by the corporation, and the producing

1751 agent who submitted the application to the plan or to the
 1752 corporation is not currently appointed by the insurer, the
 1753 insurer shall:

1754 (A) Pay to the producing agent of record of the policy,
 1755 for the first year, an amount that is the greater of the
 1756 insurer's usual and customary commission for the type of policy
 1757 written or a fee equal to the usual and customary commission of
 1758 the corporation; or

1759 (B) Offer to allow the producing agent of record of the
 1760 policy to continue servicing the policy for at least 1 year and
 1761 offer to pay the agent the greater of the insurer's or the
 1762 corporation's usual and customary commission for the type of
 1763 policy written.

1764
 1765 If the producing agent is unwilling or unable to accept
 1766 appointment, the new insurer shall pay the agent in accordance
 1767 with sub-sub-sub-subparagraph (A).

1768 (II) If the corporation enters into a contractual
 1769 agreement for a take-out plan, the producing agent of record of
 1770 the corporation policy is entitled to retain any unearned
 1771 commission on the policy, and the insurer shall:

1772 (A) Pay to the producing agent of record, for the first
 1773 year, an amount that is the greater of the insurer's usual and
 1774 customary commission for the type of policy written or a fee
 1775 equal to the usual and customary commission of the corporation;

1776 or
 1777 (B) Offer to allow the producing agent of record to
 1778 continue servicing the policy for at least 1 year and offer to
 1779 pay the agent the greater of the insurer's or the corporation's
 1780 usual and customary commission for the type of policy written.

1781
 1782 If the producing agent is unwilling or unable to accept
 1783 appointment, the new insurer shall pay the agent in accordance
 1784 with sub-sub-sub-subparagraph (A).

1785 6. Must include rules for classifications of risks and
 1786 rates.

1787 7. Must provide that if premium and investment income:
 1788 a. ~~for the Citizens an~~ account which are attributable to a
 1789 particular calendar year are in excess of projected losses and
 1790 expenses for the Citizens account attributable to that year,
 1791 such excess shall be held in surplus in the Citizens account.
 1792 Such surplus must be available to defray deficits in the
 1793 Citizens ~~that~~ account as to future years and used for that
 1794 purpose before assessing assessable insurers and assessable
 1795 insureds as to any calendar year; ~~or~~

1796 ~~b. For the Citizens account, if established by the~~
 1797 ~~corporation, which are attributable to a particular calendar~~
 1798 ~~year are in excess of projected losses and expenses for the~~
 1799 ~~Citizens account attributable to that year, such excess shall be~~
 1800 ~~held in surplus in the Citizens account. Such surplus must be~~

1801 ~~available to defray deficits in the Citizens account as to~~
 1802 ~~future years and used for that purpose before assessing~~
 1803 ~~assessable insurers and assessable insureds as to any calendar~~
 1804 ~~year.~~

1805 8. Must provide objective criteria and procedures to be
 1806 uniformly applied to all applicants in determining whether an
 1807 individual risk is so hazardous as to be uninsurable. In making
 1808 this determination and in establishing the criteria and
 1809 procedures, the following must be considered:

1810 a. Whether the likelihood of a loss for the individual
 1811 risk is substantially higher than for other risks of the same
 1812 class; and

1813 b. Whether the uncertainty associated with the individual
 1814 risk is such that an appropriate premium cannot be determined.

1815
 1816 The acceptance or rejection of a risk by the corporation shall
 1817 be construed as the private placement of insurance, and the
 1818 provisions of chapter 120 do not apply.

1819 9. Must provide that the corporation make its best efforts
 1820 to procure catastrophe reinsurance at reasonable rates, to cover
 1821 its projected 100-year probable maximum loss as determined by
 1822 the board of governors. If catastrophe reinsurance is not
 1823 available at reasonable rates, the corporation need not purchase
 1824 it, but the corporation shall include the costs of reinsurance
 1825 to cover its projected 100-year probable maximum loss in its

1826 rate calculations even if it does not purchase catastrophe
 1827 reinsurance.

1828 10. ~~The policies issued by the corporation~~ Must provide in
 1829 the policies issued by the corporation that if the corporation
 1830 or the market assistance plan obtains an offer from an
 1831 authorized insurer to cover the risk at its approved rates, the
 1832 risk is no longer eligible for renewal through the corporation,
 1833 except as otherwise provided in this subsection.

1834 11. ~~Corporation policies and applications~~ Must include in
 1835 the corporation policies and applications a notice that the
 1836 corporation policy could, under this section, be replaced with a
 1837 policy issued by an authorized insurer which does not provide
 1838 coverage identical to the coverage provided by the corporation.
 1839 The notice must also specify that acceptance of corporation
 1840 coverage creates a conclusive presumption that the applicant or
 1841 policyholder is aware of this potential.

1842 12. May establish, subject to approval by the office,
 1843 different eligibility requirements and operational procedures
 1844 for any line or type of coverage for any specified county or
 1845 area if the board determines that such changes are justified due
 1846 to the voluntary market being sufficiently stable and
 1847 competitive in such area or for such line or type of coverage
 1848 and that consumers who, in good faith, are unable to obtain
 1849 insurance through the voluntary market through ordinary methods
 1850 continue to have access to coverage from the corporation. If

1851 coverage is sought in connection with a real property transfer,
 1852 the requirements and procedures may not provide an effective
 1853 date of coverage later than the date of the closing of the
 1854 transfer as established by the transferor, the transferee, and,
 1855 if applicable, the lender.

1856 ~~13. Must provide that:~~

1857 ~~a. With respect to the coastal account, any assessable~~
 1858 ~~insurer with a surplus as to policyholders of \$25 million or~~
 1859 ~~less writing 25 percent or more of its total countrywide~~
 1860 ~~property insurance premiums in this state may petition the~~
 1861 ~~office, within the first 90 days of each calendar year, to~~
 1862 ~~qualify as a limited apportionment company. A regular assessment~~
 1863 ~~levied by the corporation on a limited apportionment company for~~
 1864 ~~a deficit incurred by the corporation for the coastal account~~
 1865 ~~may be paid to the corporation on a monthly basis as the~~
 1866 ~~assessments are collected by the limited apportionment company~~
 1867 ~~from its insureds, but a limited apportionment company must~~
 1868 ~~begin collecting the regular assessments not later than 90 days~~
 1869 ~~after the regular assessments are levied by the corporation, and~~
 1870 ~~the regular assessments must be paid in full within 15 months~~
 1871 ~~after being levied by the corporation. A limited apportionment~~
 1872 ~~company shall collect from its policyholders any emergency~~
 1873 ~~assessment imposed under sub-subparagraph (b) 3.e. The plan must~~
 1874 ~~provide that, if the office determines that any regular~~
 1875 ~~assessment will result in an impairment of the surplus of a~~

1876 ~~limited apportionment company, the office may direct that all or~~
 1877 ~~part of such assessment be deferred as provided in subparagraph~~
 1878 ~~(q)4. However, an emergency assessment to be collected from~~
 1879 ~~policyholders under sub-subparagraph (b)3.c. may not be limited~~
 1880 ~~or deferred; or~~

1881 ~~b. With respect to the Citizens account, if established by~~
 1882 ~~the corporation pursuant to sub-subparagraph (b)2.b., any~~
 1883 ~~assessable insurer with a surplus as to policyholders of \$25~~
 1884 ~~million or less and writing 25 percent or more of its total~~
 1885 ~~countrywide property insurance premiums in this state may~~
 1886 ~~petition the office, within the first 90 days of each calendar~~
 1887 ~~year, to qualify as a limited apportionment company. A limited~~
 1888 ~~apportionment company shall collect from its policyholders any~~
 1889 ~~emergency assessment imposed under sub-subparagraph (b)5.c. An~~
 1890 ~~emergency assessment to be collected from policyholders under~~
 1891 ~~sub-subparagraph (b)5.c. may not be limited or deferred.~~

1892 ~~13.14.~~ Must provide that the corporation appoint as its
 1893 licensed agents only those agents who throughout such
 1894 appointments also hold an appointment as defined in s. 626.015
 1895 by at least three insurers ~~an insurer~~ who are ~~is~~ authorized to
 1896 write and are ~~is~~ actually writing or renewing personal lines
 1897 residential property coverage, commercial residential property
 1898 coverage, or commercial nonresidential property coverage within
 1899 the state.

1900 ~~14.15.~~ Must provide a premium payment plan option to its

1901 policyholders which, at a minimum, allows for quarterly and
 1902 semiannual payment of premiums. A monthly payment plan may, but
 1903 is not required to, be offered.

1904 ~~15.16.~~ Must limit coverage on mobile homes or manufactured
 1905 homes built before 1994 to actual cash value of the dwelling
 1906 rather than replacement costs of the dwelling.

1907 ~~16.17.~~ Must provide coverage for manufactured or mobile
 1908 home dwellings. Such coverage must also include the following
 1909 attached structures:

1910 a. Screened enclosures that are aluminum framed or
 1911 screened enclosures that are not covered by the same or
 1912 substantially the same materials as those of the primary
 1913 dwelling;

1914 b. Carports that are aluminum or carports that are not
 1915 covered by the same or substantially the same materials as those
 1916 of the primary dwelling; and

1917 c. Patios that have a roof covering that is constructed of
 1918 materials that are not the same or substantially the same
 1919 materials as those of the primary dwelling.

1920
 1921 The corporation shall make available a policy for mobile homes
 1922 or manufactured homes for a minimum insured value of at least
 1923 \$3,000.

1924 ~~17.18.~~ May provide such limits of coverage as the board
 1925 determines, consistent with the requirements of this subsection.

1926 18.19. May require commercial property to meet specified
 1927 hurricane mitigation construction features as a condition of
 1928 eligibility for coverage.

1929 19.20. Must provide that new or renewal policies issued by
 1930 the corporation on or after January 1, 2012, which cover
 1931 sinkhole loss do not include coverage for any loss to
 1932 appurtenant structures, driveways, sidewalks, decks, or patios
 1933 that are directly or indirectly caused by sinkhole activity. The
 1934 corporation shall exclude such coverage using a notice of
 1935 coverage change, which may be included with the policy renewal,
 1936 and not by issuance of a notice of nonrenewal of the excluded
 1937 coverage upon renewal of the current policy.

1938 20.a.21.a. ~~As of January 1, 2012, unless the Citizens~~
 1939 ~~account has been established pursuant to sub-subparagraph~~
 1940 ~~(b)2.b.,~~ Must require that the agent obtain from an applicant
 1941 for coverage from the corporation the following an
 1942 acknowledgment signed by the applicant, which includes, at a
 1943 minimum, the following statement:

ACKNOWLEDGMENT OF POTENTIAL SURCHARGE
 AND ASSESSMENT LIABILITY:

1946 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
 1947 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
 1948 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
 1949 MY POLICY COULD BE SUBJECT TO SURCHARGES AND ASSESSMENTS, WHICH
 1950 WILL BE DUE AND PAYABLE UPON RENEWAL, CANCELLATION, OR

1951 TERMINATION OF THE POLICY, AND THAT THE SURCHARGES AND
 1952 ASSESSMENTS COULD BE AS HIGH AS 25 ~~45~~ PERCENT OF MY PREMIUM, OR
 1953 A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA LEGISLATURE.

1954 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER
 1955 SURCHARGE, WHICH COULD BE AS HIGH AS 15 ~~45~~ PERCENT OF MY
 1956 PREMIUM, BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND
 1957 THAT TO BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY
 1958 TO OBTAIN PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR
 1959 RENEWING COVERAGE WITH CITIZENS. I UNDERSTAND THAT PRIVATE
 1960 MARKET INSURANCE RATES ARE REGULATED AND APPROVED BY THE STATE.

1961 3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
 1962 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
 1963 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
 1964 FLORIDA LEGISLATURE.

1965 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
 1966 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
 1967 STATE OF FLORIDA.

1968 ~~b. The corporation must require, if it has established the~~
 1969 ~~Citizens account pursuant to sub-subparagraph (b)2.b., that the~~
 1970 ~~agent obtain from an applicant for coverage from the corporation~~
 1971 ~~the following acknowledgment signed by the applicant, which~~
 1972 ~~includes, at a minimum, the following statement:~~

1973 ~~ACKNOWLEDGMENT OF POTENTIAL SURCHARGE~~

1974 ~~AND ASSESSMENT LIABILITY:~~

1975 ~~1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE~~

1976 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
 1977 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
 1978 MY POLICY COULD BE SUBJECT TO SURCHARGES AND ASSESSMENTS, WHICH
 1979 WILL BE DUE AND PAYABLE UPON RENEWAL, CANCELLATION, OR
 1980 TERMINATION OF THE POLICY, AND THAT THE SURCHARGES AND
 1981 ASSESSMENTS COULD BE AS HIGH AS 25 PERCENT OF MY PREMIUM, OR A
 1982 DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA LEGISLATURE.

1983 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER
 1984 SURCHARGE, WHICH COULD BE AS HIGH AS 15 PERCENT OF MY PREMIUM,
 1985 BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO
 1986 BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN
 1987 PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE
 1988 WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES
 1989 ARE REGULATED AND APPROVED BY THE STATE.

1990 3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
 1991 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
 1992 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
 1993 FLORIDA LEGISLATURE.

1994 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
 1995 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
 1996 STATE OF FLORIDA.

1997 b.e. The corporation shall maintain, in electronic format
 1998 or otherwise, a copy of the applicant's signed acknowledgment
 1999 and provide a copy of the statement to the policyholder as part
 2000 of the first renewal after the effective date of sub-

2001 subparagraph a. ~~or sub-subparagraph b., as applicable.~~

2002 c.d. The signed acknowledgment form creates a conclusive
 2003 presumption that the policyholder understood and accepted his or
 2004 her potential surcharge and assessment liability as a
 2005 policyholder of the corporation.

2006 (d)1. All prospective employees for senior management
 2007 positions, as defined by the plan of operation, are subject to
 2008 background checks as a prerequisite for employment. The office
 2009 shall conduct the background checks pursuant to ss. 624.34,
 2010 624.404(3), and 628.261.

2011 2. On or before July 1 of each year, employees of the
 2012 corporation must sign and submit a statement attesting that they
 2013 do not have a conflict of interest, as defined in part III of
 2014 chapter 112. As a condition of employment, all prospective
 2015 employees must sign and submit to the corporation a conflict-of-
 2016 interest statement.

2017 3. The executive director, senior managers, and members of
 2018 the board of governors are subject to part III of chapter 112,
 2019 including, but not limited to, the code of ethics and public
 2020 disclosure and reporting of financial interests, pursuant to s.
 2021 112.3145. For purposes of applying part III of chapter 112 to
 2022 activities of the executive director, senior managers, and
 2023 members of the board of governors, those persons shall be
 2024 considered public officers or employees and the corporation
 2025 shall be considered their agency. Notwithstanding s.

2026 112.3143(2), a board member may not vote on any measure that
 2027 would inure to his or her special private gain or loss; that he
 2028 or she knows would inure to the special private gain or loss of
 2029 any principal by whom he or she is retained or to the parent
 2030 organization or subsidiary of a corporate principal by which he
 2031 or she is retained, other than an agency as defined in s.
 2032 112.312; or that he or she knows would inure to the special
 2033 private gain or loss of a relative or business associate of the
 2034 public officer. Before the vote is taken, such member shall
 2035 publicly state to the assembly the nature of his or her interest
 2036 in the matter from which he or she is abstaining from voting
 2037 and, within 15 days after the vote occurs, disclose the nature
 2038 of his or her interest as a public record in a memorandum filed
 2039 with the person responsible for recording the minutes of the
 2040 meeting, who shall incorporate the memorandum in the minutes.
 2041 Senior managers and board members are also required to file such
 2042 disclosures with the Commission on Ethics and the Office of
 2043 Insurance Regulation. The executive director of the corporation
 2044 or his or her designee shall notify each existing and newly
 2045 appointed member of the board of governors and senior managers
 2046 of their duty to comply with the reporting requirements of part
 2047 III of chapter 112. At least quarterly, the executive director
 2048 or his or her designee shall submit to the Commission on Ethics
 2049 a list of names of the senior managers and members of the board
 2050 of governors who are subject to the public disclosure

2051 requirements under s. 112.3145.

2052 4. Notwithstanding s. 112.3148, s. 112.3149, or any other
 2053 provision of law, an employee or board member may not knowingly
 2054 accept, directly or indirectly, any gift or expenditure from a
 2055 person or entity, or an employee or representative of such
 2056 person or entity, which has a contractual relationship with the
 2057 corporation or who is under consideration for a contract. An
 2058 employee or board member who fails to comply with subparagraph
 2059 3. or this subparagraph is subject to penalties provided under
 2060 ss. 112.317 and 112.3173.

2061 5. Any senior manager of the corporation who is employed
 2062 on or after January 1, 2007, regardless of the date of hire, who
 2063 subsequently retires or terminates employment is prohibited from
 2064 representing another person or entity before the corporation for
 2065 2 years after retirement or termination of employment from the
 2066 corporation.

2067 6. The executive director, members of the board of
 2068 governors, and senior managers of the corporation are prohibited
 2069 from having any employment or contractual relationship for 2
 2070 years after retirement from or termination of service to the
 2071 corporation with an insurer that has entered into a take-out
 2072 bonus agreement with the corporation.

2073 (e) The corporation is subject to s. 287.057 for the
 2074 purchase of commodities and contractual services except as
 2075 otherwise provided in this paragraph. Services provided by

2076 tradepersons or technical experts to assist a licensed adjuster
 2077 in the evaluation of individual claims are not subject to the
 2078 procurement requirements of this section. Additionally, the
 2079 procurement of financial services providers and underwriters
 2080 must be made pursuant to s. 627.3513. Contracts for goods or
 2081 services valued at or more than \$100,000 are subject to approval
 2082 by the board.

2083 1. The corporation is an agency for purposes of s.
 2084 287.057, except that, for purposes of s. 287.057(24), the
 2085 corporation is an eligible user.

2086 a. The authority of the Department of Management Services
 2087 and the Chief Financial Officer under s. 287.057 extends to the
 2088 corporation as if the corporation were an agency.

2089 b. The executive director of the corporation is the agency
 2090 head under s. 287.057, ~~except for resolution of bid protests for~~
 2091 ~~which the board would serve as the agency head.~~ The executive
 2092 director may assign or appoint a designee to act on his or her
 2093 behalf.

2094 2. The corporation must provide notice of a decision or
 2095 intended decision concerning a solicitation, contract award, or
 2096 exceptional purchase by electronic posting. Such notice must
 2097 contain the following statement: "Failure to file a protest
 2098 within the time prescribed in this section constitutes a waiver
 2099 of proceedings."

2100 a. A person adversely affected by the corporation's

2101 decision or intended decision to award a contract pursuant to s.
 2102 287.057(1) or (3)(c) who elects to challenge the decision must
 2103 file a written notice of protest with the executive director of
 2104 the corporation within 72 hours after the corporation posts a
 2105 notice of its decision or intended decision. For a protest of
 2106 the terms, conditions, and specifications contained in a
 2107 solicitation, including provisions governing the methods for
 2108 ranking bids, proposals, replies, awarding contracts, reserving
 2109 rights of further negotiation, or modifying or amending any
 2110 contract, the notice of protest must be filed in writing within
 2111 72 hours after posting the solicitation. Saturdays, Sundays, and
 2112 state holidays are excluded in the computation of the 72-hour
 2113 time period.

2114 b. A formal written protest must be filed within 10 days
 2115 after the date the notice of protest is filed. The formal
 2116 written protest must state with particularity the facts and law
 2117 upon which the protest is based. Upon receipt of a formal
 2118 written protest that has been timely filed, the corporation must
 2119 stop the solicitation or contract award process until the
 2120 subject of the protest is resolved by final board action unless
 2121 the executive director sets forth in writing particular facts
 2122 and circumstances that require the continuance of the
 2123 solicitation or contract award process without delay in order to
 2124 avoid an immediate and serious danger to the public health,
 2125 safety, or welfare.

2126 (I) The corporation must provide an opportunity to resolve
 2127 the protest by mutual agreement between the parties within 7
 2128 business days after receipt of the formal written protest.

2129 (II) If the subject of a protest is not resolved by mutual
 2130 agreement within 7 business days, the corporation's board must
 2131 transmit the protest to the Division of Administrative Hearings
 2132 and contract with the division to conduct a hearing to determine
 2133 the merits of the protest and to issue a recommended order. The
 2134 contract must provide for the corporation to reimburse the
 2135 division for any costs incurred by the division for court
 2136 reporters, transcript preparation, travel, facility rental, and
 2137 other customary hearing costs in the manner set forth in s.
 2138 120.65(9). The division has jurisdiction to determine the facts
 2139 and law concerning the protest and to issue a recommended order.
 2140 The division's rules and procedures apply to these proceedings,
 2141 ~~the division's applicable bond requirements do not apply.~~ The
 2142 protest must be heard by the division at a publicly noticed
 2143 meeting in accordance with procedures established by the
 2144 division.

2145 c. In a protest of an invitation-to-bid or request-for-
 2146 proposals procurement, submissions made after the bid or
 2147 proposal opening which amend or supplement the bid or proposal
 2148 may not be considered. In protesting an invitation-to-negotiate
 2149 procurement, submissions made after the corporation announces
 2150 its intent to award a contract, reject all replies, or withdraw

2151 the solicitation that amends or supplements the reply may not be
 2152 considered. Unless otherwise provided by law, the burden of
 2153 proof rests with the party protesting the corporation's action.
 2154 In a competitive-procurement protest, other than a rejection of
 2155 all bids, proposals, or replies, the administrative law judge
 2156 must conduct a de novo proceeding to determine whether the
 2157 corporation's proposed action is contrary to the corporation's
 2158 governing statutes, the corporation's rules or policies, or the
 2159 solicitation specifications. The standard of proof for the
 2160 proceeding is whether the corporation's action was clearly
 2161 erroneous, contrary to competition, arbitrary, or capricious. In
 2162 any bid-protest proceeding contesting an intended corporation
 2163 action to reject all bids, proposals, or replies, the standard
 2164 of review by the board is whether the corporation's intended
 2165 action is illegal, arbitrary, dishonest, or fraudulent.

2166 d. Failure to file a notice of protest or failure to file
 2167 a formal written protest constitutes a waiver of proceedings.

2168 3. The ~~board, acting as~~ agency head or his or her
 2169 designee, shall consider the recommended order of an
 2170 administrative law judge ~~in a public meeting~~ and take final
 2171 action on the protest. Any further legal remedy lies with the
 2172 First District Court of Appeal.

2173 (f) The corporation is subject to the provisions of
 2174 chapter 255.

2175 (g) The board shall determine whether it is more cost-

2176 effective and in the best interests of the corporation to use
 2177 legal services provided by in-house attorneys employed by the
 2178 corporation rather than contracting with outside counsel. In
 2179 making such determination, the board shall document its findings
 2180 and shall consider: the expertise needed; whether time
 2181 commitments exceed in-house staff resources; whether local
 2182 representation is needed; the travel, lodging and other costs
 2183 associated with in-house representation; and such other factors
 2184 that the board determines are relevant.

2185 (h) The corporation may not retain a lobbyist to represent
 2186 it before the legislative branch or executive branch. However,
 2187 full-time employees of the corporation may register as lobbyists
 2188 and represent the corporation before the legislative branch or
 2189 executive branch.

2190 (i)1. The Office of the Internal Auditor is established
 2191 within the corporation to provide a central point for
 2192 coordination of and responsibility for activities that promote
 2193 accountability, integrity, and efficiency to the policyholders
 2194 and to the taxpayers of this state. The internal auditor shall
 2195 be appointed by the board of governors, shall report to and be
 2196 under the general supervision of the board of governors, and is
 2197 not subject to supervision by an employee of the corporation.
 2198 Administrative staff and support shall be provided by the
 2199 corporation. The internal auditor shall be appointed without
 2200 regard to political affiliation. It is the duty and

2201 responsibility of the internal auditor to:

2202 a. Provide direction for, supervise, conduct, and

2203 coordinate audits, investigations, and management reviews

2204 relating to the programs and operations of the corporation.

2205 b. Conduct, supervise, or coordinate other activities

2206 carried out or financed by the corporation for the purpose of

2207 promoting efficiency in the administration of, or preventing and

2208 detecting fraud, abuse, and mismanagement in, its programs and

2209 operations.

2210 c. Submit final audit reports, reviews, or investigative

2211 reports to the board of governors, the executive director, the

2212 members of the Financial Services Commission, and the President

2213 of the Senate and the Speaker of the House of Representatives.

2214 d. Keep the board of governors informed concerning fraud,

2215 abuses, and internal control deficiencies relating to programs

2216 and operations administered or financed by the corporation,

2217 recommend corrective action, and report on the progress made in

2218 implementing corrective action.

2219 e. Cooperate and coordinate activities with the

2220 corporation's inspector general.

2221 2. On or before February 15, the internal auditor shall

2222 prepare an annual report evaluating the effectiveness of the

2223 internal controls of the corporation and providing

2224 recommendations for corrective action, if necessary, and

2225 summarizing the audits, reviews, and investigations conducted by

2226 the office during the preceding fiscal year. The final report
 2227 shall be furnished to the board of governors and the executive
 2228 director, the President of the Senate, the Speaker of the House
 2229 of Representatives, and the Financial Services Commission.

2230 (j) All records of the corporation, except as otherwise
 2231 provided by law, are subject to the record retention
 2232 requirements of s. 119.021.

2233 (k)1. The corporation shall establish and maintain a unit
 2234 or division to investigate possible fraudulent claims by
 2235 insureds or by persons making claims for services or repairs
 2236 against policies held by insureds; or it may contract with
 2237 others to investigate possible fraudulent claims for services or
 2238 repairs against policies held by the corporation pursuant to s.
 2239 626.9891. The corporation must comply with reporting
 2240 requirements of s. 626.9891. An employee of the corporation
 2241 shall notify the corporation's Office of the Inspector General
 2242 and the Division of Investigative and Forensic Services within
 2243 48 hours after having information that would lead a reasonable
 2244 person to suspect that fraud may have been committed by any
 2245 employee of the corporation.

2246 2. The corporation shall establish a unit or division
 2247 responsible for receiving and responding to consumer complaints,
 2248 which unit or division is the sole responsibility of a senior
 2249 manager of the corporation.

2250 (l) The office shall conduct a comprehensive market

2251 | conduct examination of the corporation every 2 years to
 2252 | determine compliance with its plan of operation and internal
 2253 | operations procedures. The first market conduct examination
 2254 | report shall be submitted to the President of the Senate and the
 2255 | Speaker of the House of Representatives no later than February
 2256 | 1, 2009. Subsequent reports shall be submitted on or before
 2257 | February 1 every 2 years thereafter.

2258 | (m) The Auditor General shall conduct an operational audit
 2259 | of the corporation every 3 years to evaluate management's
 2260 | performance in administering laws, policies, and procedures
 2261 | governing the operations of the corporation in an efficient and
 2262 | effective manner. The scope of the review shall include, but is
 2263 | not limited to, evaluating claims handling, customer service,
 2264 | take-out programs and bonuses, financing arrangements,
 2265 | procurement of goods and services, internal controls, and the
 2266 | internal audit function. The initial audit must be completed by
 2267 | February 1, 2009.

2268 | (n)1. Rates for coverage provided by the corporation must
 2269 | be actuarially sound pursuant to s. 627.062 and not competitive
 2270 | with approved rates charged in the admitted voluntary market so
 2271 | that the corporation functions as a residual market mechanism to
 2272 | provide insurance only when insurance cannot be procured in the
 2273 | voluntary market, except as otherwise provided in this
 2274 | paragraph. The office shall provide the corporation such
 2275 | information as would be necessary to determine whether rates are

2276 competitive. The corporation shall file its recommended rates
 2277 with the office at least annually. The corporation shall provide
 2278 any additional information regarding the rates which the office
 2279 requires. The office shall consider the recommendations of the
 2280 board and issue a final order establishing the rates for the
 2281 corporation within 45 days after the recommended rates are
 2282 filed. The corporation may not pursue an administrative
 2283 challenge or judicial review of the final order of the office.

2284 2. In addition to the rates otherwise determined pursuant
 2285 to this paragraph, the corporation shall impose and collect an
 2286 amount equal to the premium tax provided in s. 624.509 to
 2287 augment the financial resources of the corporation.

2288 3. After the public hurricane loss-projection model under
 2289 s. 627.06281 has been found to be accurate and reliable by the
 2290 Florida Commission on Hurricane Loss Projection Methodology, the
 2291 model shall be considered when establishing the windstorm
 2292 portion of the corporation's rates. The corporation may use the
 2293 public model results in combination with the results of private
 2294 models to calculate rates for the windstorm portion of the
 2295 corporation's rates. This subparagraph does not require or allow
 2296 the corporation to adopt rates lower than the rates otherwise
 2297 required or allowed by this paragraph.

2298 4. The corporation must make a recommended actuarially
 2299 sound rate filing for each personal and commercial line of
 2300 business it writes.

2301 5. Notwithstanding the board's recommended rates and the
 2302 office's final order regarding the corporation's filed rates
 2303 under subparagraph 1., the corporation shall annually implement
 2304 a rate increase which, except for sinkhole coverage, does not
 2305 exceed the following for any single policy issued by the
 2306 corporation, excluding coverage changes and surcharges:

- 2307 ~~a. Twelve percent for 2023.~~
- 2308 a.b. Thirteen percent for 2024.
- 2309 ~~b.e.~~ Fourteen percent for 2025.
- 2310 c.d. Fifteen percent for 2026 and all subsequent years.

2311 6. The corporation may also implement an increase to
 2312 reflect the effect on the corporation of the cash buildup factor
 2313 pursuant to s. 215.555(5)(b).

2314 7. The corporation's implementation of rates as prescribed
 2315 in subparagraphs 5. and 8. shall cease for any line of business
 2316 written by the corporation upon the corporation's implementation
 2317 of actuarially sound rates. Thereafter, the corporation shall
 2318 annually make a recommended actuarially sound rate filing that
 2319 is not competitive with approved rates in the admitted voluntary
 2320 market for each commercial and personal line of business the
 2321 corporation writes.

2322 8. The following new or renewal personal lines policies
 2323 written on or after November 1, 2023, are not subject to the
 2324 rate increase limitations in subparagraph 5., but may not be
 2325 charged more than 50 percent above, and may not be charged ~~nor~~

2326 | less than, the prior year's established rate for the
 2327 | corporation:

2328 | a. Policies that do not cover a primary residence;

2329 | b. New policies under which the coverage for the insured
 2330 | risk, before the date of application with the corporation, was
 2331 | last provided by an insurer determined by the office to be
 2332 | unsound or an insurer placed in receivership under chapter 631;
 2333 | or

2334 | c. Subsequent renewals of those policies, including the
 2335 | new policies in sub-subparagraph b., under which the coverage
 2336 | for the insured risk, before the date of application with the
 2337 | corporation, was last provided by an insurer determined by the
 2338 | office to be unsound or an insurer placed in receivership under
 2339 | chapter 631.

2340 | 9. As used in this paragraph, the term "primary residence"
 2341 | means the dwelling that is the policyholder's primary home or is
 2342 | a rental property that is the primary home of the tenant, and
 2343 | which the policyholder or tenant occupies for more than 9 months
 2344 | of each year.

2345 | (o) If coverage in ~~an account, or~~ the Citizens account ~~if~~
 2346 | ~~established by the corporation,~~ is deactivated pursuant to
 2347 | paragraph (p), coverage through the corporation shall be
 2348 | reactivated by order of the office only under one of the
 2349 | following circumstances:

2350 | 1. If the market assistance plan receives a minimum of 100

2351 applications for coverage within a 3-month period, or 200
 2352 applications for coverage within a 1-year period or less for
 2353 residential coverage, unless the market assistance plan provides
 2354 a quotation from authorized ~~admitted~~ carriers at their approved
 2355 ~~filed~~ rates for at least 90 percent of such applicants. Any
 2356 market assistance plan application that is rejected because an
 2357 individual risk is so hazardous as to be uninsurable using the
 2358 criteria specified in subparagraph (c)8. shall not be included
 2359 in the minimum percentage calculation provided herein. In the
 2360 event that there is a legal or administrative challenge to a
 2361 determination by the office that the conditions of this
 2362 subparagraph have been met for eligibility for coverage in the
 2363 corporation, any eligible risk may obtain coverage during the
 2364 pendency of such challenge.

2365 2. In response to a state of emergency declared by the
 2366 Governor under s. 252.36, the office may activate coverage by
 2367 order for the period of the emergency upon a finding by the
 2368 office that the emergency significantly affects the availability
 2369 of residential property insurance.

2370 (p)1. The corporation shall file with the office quarterly
 2371 statements of financial condition, an annual statement of
 2372 financial condition, and audited financial statements in the
 2373 manner prescribed by law. In addition, the corporation shall
 2374 report to the office monthly on the types, premium, exposure,
 2375 and distribution by county of its policies in force, and shall

2376 submit other reports as the office requires to carry out its
 2377 oversight of the corporation.

2378 2. The activities of the corporation shall be reviewed at
 2379 least annually by the office to determine whether coverage shall
 2380 be deactivated ~~in an account, or~~ in the Citizens account ~~if~~
 2381 ~~established by the corporation,~~ on the basis that the conditions
 2382 giving rise to its activation no longer exist.

2383 (q)1. The corporation shall certify to the office its
 2384 needs for annual assessments as to a particular calendar year,
 2385 and for any interim assessments that it deems to be necessary to
 2386 sustain operations as to a particular year pending the receipt
 2387 of annual assessments. Upon verification, the office shall
 2388 approve such certification, and the corporation shall levy such
 2389 annual or interim assessments. Such assessments shall be
 2390 prorated, if authority to levy exists, as provided in paragraph
 2391 (b). The corporation shall take all reasonable and prudent steps
 2392 necessary to collect the amount of assessments due from each
 2393 assessable insurer, including, if prudent, filing suit to
 2394 collect the assessments, and the office may provide such
 2395 assistance to the corporation it deems appropriate. If the
 2396 corporation is unable to collect an assessment from any
 2397 assessable insurer, the uncollected assessments shall be levied
 2398 as an additional assessment against the assessable insurers and
 2399 any assessable insurer required to pay an additional assessment
 2400 as a result of such failure to pay shall have a cause of action

2401 against such nonpaying assessable insurer. Assessments shall be
 2402 included as an appropriate factor in the making of rates. The
 2403 failure of a surplus lines agent to collect and remit any
 2404 regular or emergency assessment levied by the corporation is
 2405 considered to be a violation of s. 626.936 and subjects the
 2406 surplus lines agent to the penalties provided in that section.

2407 2. The governing body of any unit of local government, any
 2408 residents of which are insured by the corporation, may issue
 2409 bonds as defined in s. 125.013 or s. 166.101 from time to time
 2410 to fund an assistance program, in conjunction with the
 2411 corporation, for the purpose of defraying deficits of the
 2412 corporation. In order to avoid needless and indiscriminate
 2413 proliferation, duplication, and fragmentation of such assistance
 2414 programs, any unit of local government, any residents of which
 2415 are insured by the corporation, may provide for the payment of
 2416 losses, regardless of whether or not the losses occurred within
 2417 or outside of the territorial jurisdiction of the local
 2418 government. Revenue bonds under this subparagraph may not be
 2419 issued until validated pursuant to chapter 75, unless a state of
 2420 emergency is declared by executive order or proclamation of the
 2421 Governor pursuant to s. 252.36 making such findings as are
 2422 necessary to determine that it is in the best interests of, and
 2423 necessary for, the protection of the public health, safety, and
 2424 general welfare of residents of this state and declaring it an
 2425 essential public purpose to permit certain municipalities or

2426 | counties to issue such bonds as will permit relief to claimants
 2427 | and policyholders of the corporation. Any such unit of local
 2428 | government may enter into such contracts with the corporation
 2429 | and with any other entity created pursuant to this subsection as
 2430 | are necessary to carry out this paragraph. Any bonds issued
 2431 | under this subparagraph shall be payable from and secured by
 2432 | moneys received by the corporation from emergency assessments
 2433 | under sub-subparagraph (b)3.c. ~~(b)3.e.~~, and assigned and pledged
 2434 | to or on behalf of the unit of local government for the benefit
 2435 | of the holders of such bonds. The funds, credit, property, and
 2436 | taxing power of the state or of the unit of local government
 2437 | shall not be pledged for the payment of such bonds.

2438 | 3.a. The corporation shall adopt one or more programs
 2439 | subject to approval by the office for the reduction of both new
 2440 | and renewal writings in the corporation. Beginning January 1,
 2441 | 2008, any program the corporation adopts for the payment of
 2442 | bonuses to an insurer for each risk the insurer removes from the
 2443 | corporation shall comply with s. 627.3511(2) and may not exceed
 2444 | the amount referenced in s. 627.3511(2) for each risk removed.
 2445 | The corporation may consider any prudent and not unfairly
 2446 | discriminatory approach to reducing corporation writings, and
 2447 | may adopt a credit against assessment liability or other
 2448 | liability that provides an incentive for insurers to take risks
 2449 | out of the corporation and to keep risks out of the corporation
 2450 | by maintaining or increasing voluntary writings in counties or

2451 areas in which corporation risks are highly concentrated and a
 2452 program to provide a formula under which an insurer voluntarily
 2453 taking risks out of the corporation by maintaining or increasing
 2454 voluntary writings will be relieved wholly or partially from
 2455 assessments ~~under sub-subparagraph (b)3.a.~~ In addition, in the
 2456 event policies are taken out by an approved surplus lines
 2457 insurer, such insurer's assessable insureds may also be relieved
 2458 wholly or partially from assessments. However, any "take-out
 2459 bonus" or payment to an insurer must be conditioned on the
 2460 property being insured for at least 5 years by the insurer,
 2461 unless canceled or nonrenewed by the policyholder. If the policy
 2462 is canceled or nonrenewed by the policyholder before the end of
 2463 the 5-year period, the amount of the take-out bonus must be
 2464 prorated for the time period the policy was insured. When the
 2465 corporation enters into a contractual agreement for a take-out
 2466 plan, the producing agent of record of the corporation policy is
 2467 entitled to retain any unearned commission on such policy, and
 2468 the insurer shall either:

2469 (I) Pay to the producing agent of record of the policy,
 2470 for the first year, an amount which is the greater of the
 2471 insurer's usual and customary commission for the type of policy
 2472 written or a policy fee equal to the usual and customary
 2473 commission of the corporation; or

2474 (II) Offer to allow the producing agent of record of the
 2475 policy to continue servicing the policy for a period of not less

2476 than 1 year and offer to pay the agent the insurer's usual and
2477 customary commission for the type of policy written. If the
2478 producing agent is unwilling or unable to accept appointment by
2479 the new insurer, the new insurer shall pay the agent in
2480 accordance with sub-sub-subparagraph (I).

2481 b. Any credit or exemption from regular assessments
2482 adopted under this subparagraph shall last no longer than the 3
2483 years following the cancellation or expiration of the policy by
2484 the corporation. With the approval of the office, the board may
2485 extend such credits for an additional year if the insurer
2486 guarantees an additional year of renewability for all policies
2487 removed from the corporation, or for 2 additional years if the
2488 insurer guarantees 2 additional years of renewability for all
2489 policies so removed.

2490 c. There shall be no credit, limitation, exemption, or
2491 deferment from emergency assessments to be collected from
2492 policyholders pursuant to sub-subparagraph (b)3.c. ~~(b)3.e. or~~
2493 ~~sub-subparagraph (b)5.e.~~

2494 ~~4. The plan shall provide for the deferment, in whole or~~
2495 ~~in part, of the assessment of an assessable insurer, other than~~
2496 ~~an emergency assessment collected from policyholders pursuant to~~
2497 ~~sub-subparagraph (b)3.e. or sub-subparagraph (b)5.e., if the~~
2498 ~~office finds that payment of the assessment would endanger or~~
2499 ~~impair the solvency of the insurer. In the event an assessment~~
2500 ~~against an assessable insurer is deferred in whole or in part,~~

2501 ~~the amount by which such assessment is deferred may be assessed~~
 2502 ~~against the other assessable insurers in a manner consistent~~
 2503 ~~with the basis for assessments set forth in paragraph (b).~~

2504 4.5. Effective July 1, 2007, in order to evaluate the
 2505 costs and benefits of approved take-out plans, if the
 2506 corporation pays a bonus or other payment to an insurer for an
 2507 approved take-out plan, it shall maintain a record of the
 2508 address or such other identifying information on the property or
 2509 risk removed in order to track if and when the property or risk
 2510 is later insured by the corporation.

2511 5.6. Any policy taken out, assumed, or removed from the
 2512 corporation is, as of the effective date of the take-out,
 2513 assumption, or removal, direct insurance issued by the insurer
 2514 and not by the corporation, even if the corporation continues to
 2515 service the policies. This subparagraph applies to policies of
 2516 the corporation and not policies taken out, assumed, or removed
 2517 from any other entity.

2518 6.7. For a policy taken out, assumed, or removed from the
 2519 corporation, the insurer may, for a period of no more than 3
 2520 years, continue to use any of the corporation's policy forms or
 2521 endorsements that apply to the policy taken out, removed, or
 2522 assumed without obtaining approval from the office for use of
 2523 such policy form or endorsement.

2524 (r) Nothing in this subsection shall be construed to
 2525 preclude the issuance of residential property insurance coverage

2526 | pursuant to part VIII of chapter 626.

2527 | (s)1. There shall be no liability on the part of, and no
 2528 | cause of action of any nature shall arise against, any
 2529 | assessable insurer or its agents or employees, the corporation
 2530 | or its agents or employees, members of the board of governors or
 2531 | their respective designees at a board meeting, corporation
 2532 | committee members, or the office or its representatives, for any
 2533 | action taken by them in the performance of their duties or
 2534 | responsibilities under this subsection. Such immunity does not
 2535 | apply to:

2536 | a. Any of the foregoing persons or entities for any
 2537 | willful tort;

2538 | b. The corporation or its producing agents for breach of
 2539 | any contract or agreement pertaining to insurance coverage;

2540 | c. The corporation with respect to issuance or payment of
 2541 | debt;

2542 | d. Any assessable insurer with respect to any action to
 2543 | enforce an assessable insurer's obligations to the corporation
 2544 | under this subsection; or

2545 | e. The corporation in any pending or future action for
 2546 | breach of contract or for benefits under a policy issued by the
 2547 | corporation.

2548 | 2. The corporation shall manage its claim employees,
 2549 | independent adjusters, and others who handle claims to ensure
 2550 | they carry out the corporation's duty to its policyholders to

2551 handle claims carefully, timely, diligently, and in good faith,
 2552 balanced against the corporation's duty to the state to manage
 2553 its assets responsibly to minimize its assessment potential.

2554 (t) For the purposes of s. 199.183(1), the corporation
 2555 shall be considered a political subdivision of the state and
 2556 shall be exempt from the corporate income tax. The premiums,
 2557 assessments, investment income, and other revenue of the
 2558 corporation are funds received for providing property insurance
 2559 coverage as required by this subsection, paying claims for
 2560 Florida citizens insured by the corporation, securing and
 2561 repaying debt obligations issued by the corporation, and
 2562 conducting all other activities of the corporation, and shall
 2563 not be considered taxes, fees, licenses, or charges for services
 2564 imposed by the Legislature on individuals, businesses, or
 2565 agencies outside state government. Bonds and other debt
 2566 obligations issued by or on behalf of the corporation are not to
 2567 be considered "state bonds" within the meaning of s. 215.58(8).
 2568 The corporation is subject to the procurement provisions of
 2569 chapter 287 as provided in paragraph (e), and policies and
 2570 decisions of the corporation relating to incurring debt, levying
 2571 of assessments and the sale, issuance, continuation, terms and
 2572 claims under corporation policies, and all services relating
 2573 thereto, are not subject to the provisions of chapter 120. The
 2574 corporation is not required to obtain or to hold a certificate
 2575 of authority issued by the office, nor is it required to

2576 participate as a member insurer of the Florida Insurance
 2577 Guaranty Association. However, the corporation is required to
 2578 pay, in the same manner as an authorized insurer, assessments
 2579 levied by the Florida Insurance Guaranty Association. It is the
 2580 intent of the Legislature that the tax exemptions provided in
 2581 this paragraph will augment the financial resources of the
 2582 corporation to better enable the corporation to fulfill its
 2583 public purposes. Any debt obligations issued by the corporation,
 2584 their transfer, and the income therefrom, including any profit
 2585 made on the sale thereof, shall at all times be free from
 2586 taxation of every kind by the state and any political
 2587 subdivision or local unit or other instrumentality thereof;
 2588 however, this exemption does not apply to any tax imposed by
 2589 chapter 220 on interest, income, or profits on debt obligations
 2590 owned by corporations other than the corporation.

2591 (u) Upon a determination by the office that the conditions
 2592 giving rise to the establishment and activation of the
 2593 corporation no longer exist, the corporation is dissolved. Upon
 2594 dissolution, the assets of the corporation shall be applied
 2595 first to pay all debts, liabilities, and obligations of the
 2596 corporation, including the establishment of reasonable reserves
 2597 for any contingent liabilities or obligations, and all remaining
 2598 assets of the corporation shall become property of the state and
 2599 shall be deposited in the Florida Hurricane Catastrophe Fund.
 2600 However, no dissolution shall take effect as long as the

2601 corporation has bonds or other financial obligations outstanding
 2602 unless adequate provision has been made for the payment of the
 2603 bonds or other financial obligations pursuant to the documents
 2604 authorizing the issuance of the bonds or other financial
 2605 obligations.

2606 (v)1. Effective July 1, 2002, policies of the Residential
 2607 Property and Casualty Joint Underwriting Association become
 2608 policies of the corporation. All obligations, rights, assets and
 2609 liabilities of the association, including bonds, note and debt
 2610 obligations, and the financing documents pertaining to them
 2611 become those of the corporation as of July 1, 2002. The
 2612 corporation is not required to issue endorsements or
 2613 certificates of assumption to insureds during the remaining term
 2614 of in-force transferred policies.

2615 2. Effective July 1, 2002, policies of the Florida
 2616 Windstorm Underwriting Association are transferred to the
 2617 corporation and become policies of the corporation. All
 2618 obligations, rights, assets, and liabilities of the association,
 2619 including bonds, note and debt obligations, and the financing
 2620 documents pertaining to them are transferred to and assumed by
 2621 the corporation on July 1, 2002. The corporation is not required
 2622 to issue endorsements or certificates of assumption to insureds
 2623 during the remaining term of in-force transferred policies.

2624 3. The Florida Windstorm Underwriting Association and the
 2625 Residential Property and Casualty Joint Underwriting Association

2626 shall take all actions necessary to further evidence the
 2627 transfers and provide the documents and instruments of further
 2628 assurance as may reasonably be requested by the corporation for
 2629 that purpose. The corporation shall execute assumptions and
 2630 instruments as the trustees or other parties to the financing
 2631 documents of the Florida Windstorm Underwriting Association or
 2632 the Residential Property and Casualty Joint Underwriting
 2633 Association may reasonably request to further evidence the
 2634 transfers and assumptions, which transfers and assumptions,
 2635 however, are effective on the date provided under this paragraph
 2636 whether or not, and regardless of the date on which, the
 2637 assumptions or instruments are executed by the corporation.
 2638 ~~Subject to the relevant financing documents pertaining to their~~
 2639 ~~outstanding bonds, notes, indebtedness, or other financing~~
 2640 ~~obligations, the moneys, investments, receivables, choses in~~
 2641 ~~action, and other intangibles of the Florida Windstorm~~
 2642 ~~Underwriting Association shall be credited to the coastal~~
 2643 ~~account of the corporation, and those of the personal lines~~
 2644 ~~residential coverage account and the commercial lines~~
 2645 ~~residential coverage account of the Residential Property and~~
 2646 ~~Casualty Joint Underwriting Association shall be credited to the~~
 2647 ~~personal lines account and the commercial lines account,~~
 2648 ~~respectively, of the corporation.~~

2649 4. Effective July 1, 2002, a new applicant for property
 2650 insurance coverage who would otherwise have been eligible for

2651 coverage in the Florida Windstorm Underwriting Association is
 2652 eligible for coverage from the corporation as provided in this
 2653 subsection.

2654 5. The transfer of all policies, obligations, rights,
 2655 assets, and liabilities from the Florida Windstorm Underwriting
 2656 Association to the corporation and the renaming of the
 2657 Residential Property and Casualty Joint Underwriting Association
 2658 as the corporation does not affect the coverage with respect to
 2659 covered policies as defined in s. 215.555(2)(c) provided to
 2660 these entities by the Florida Hurricane Catastrophe Fund. ~~The~~
 2661 ~~coverage provided by the fund to the Florida Windstorm~~
 2662 ~~Underwriting Association based on its exposures as of June 30,~~
 2663 ~~2002, and each June 30 thereafter, unless the corporation has~~
 2664 ~~established the Citizens account, shall be redesignated as~~
 2665 ~~coverage for the coastal account of the corporation.~~
 2666 ~~Notwithstanding any other provision of law, the coverage~~
 2667 ~~provided by the fund to the Residential Property and Casualty~~
 2668 ~~Joint Underwriting Association based on its exposures as of June~~
 2669 ~~30, 2002, and each June 30 thereafter, unless the corporation~~
 2670 ~~has established the Citizens account, shall be transferred to~~
 2671 ~~the personal lines account and the commercial lines account of~~
 2672 ~~the corporation. Notwithstanding any other provision of law, the~~
 2673 ~~coastal account, unless the corporation has established the~~
 2674 ~~Citizens account, shall be treated, for all Florida Hurricane~~
 2675 ~~Catastrophe Fund purposes, as if it were a separate~~

2676 ~~participating insurer with its own exposures, reimbursement~~
 2677 ~~premium, and loss reimbursement. Likewise, the personal lines~~
 2678 ~~and commercial lines accounts, unless the corporation has~~
 2679 ~~established the Citizens account, shall be viewed together, for~~
 2680 ~~all fund purposes, as if the two accounts were one and represent~~
 2681 ~~a single, separate participating insurer with its own exposures,~~
 2682 ~~reimbursement premium, and loss reimbursement.~~ The coverage
 2683 provided by the fund to the corporation shall constitute and
 2684 operate as a full transfer of coverage from the Florida
 2685 Windstorm Underwriting Association and Residential Property and
 2686 Casualty Joint Underwriting Association to the corporation.

2687 (w) Notwithstanding any other provision of law:

2688 1. The pledge or sale of, the lien upon, and the security
 2689 interest in any rights, revenues, or other assets of the
 2690 corporation created or purported to be created pursuant to any
 2691 financing documents to secure any bonds or other indebtedness of
 2692 the corporation shall be and remain valid and enforceable,
 2693 notwithstanding the commencement of and during the continuation
 2694 of, and after, any rehabilitation, insolvency, liquidation,
 2695 bankruptcy, receivership, conservatorship, reorganization, or
 2696 similar proceeding against the corporation under the laws of
 2697 this state.

2698 2. The proceeding does not relieve the corporation of its
 2699 obligation, or otherwise affect its ability to perform its
 2700 obligation, to continue to collect, or levy and collect,

2701 assessments, policyholder surcharges or other surcharges ~~under~~
 2702 ~~sub-subparagraph (b) 3. j.~~, or any other rights, revenues, or
 2703 other assets of the corporation pledged pursuant to any
 2704 financing documents.

2705 3. Each such pledge or sale of, lien upon, and security
 2706 interest in, including the priority of such pledge, lien, or
 2707 security interest, any such assessments, policyholder surcharges
 2708 or other surcharges, or other rights, revenues, or other assets
 2709 which are collected, or levied and collected, after the
 2710 commencement of and during the pendency of, or after, any such
 2711 proceeding shall continue unaffected by such proceeding. As used
 2712 in this subsection, the term "financing documents" means any
 2713 agreement or agreements, instrument or instruments, or other
 2714 document or documents now existing or hereafter created
 2715 evidencing any bonds or other indebtedness of the corporation or
 2716 pursuant to which any such bonds or other indebtedness has been
 2717 or may be issued and pursuant to which any rights, revenues, or
 2718 other assets of the corporation are pledged or sold to secure
 2719 the repayment of such bonds or indebtedness, together with the
 2720 payment of interest on such bonds or such indebtedness, or the
 2721 payment of any other obligation or financial product, as defined
 2722 in the plan of operation of the corporation related to such
 2723 bonds or indebtedness.

2724 4. Any such pledge or sale of assessments, revenues,
 2725 contract rights, or other rights or assets of the corporation

2726 shall constitute a lien and security interest, or sale, as the
 2727 case may be, that is immediately effective and attaches to such
 2728 assessments, revenues, or contract rights or other rights or
 2729 assets, whether or not imposed or collected at the time the
 2730 pledge or sale is made. Any such pledge or sale is effective,
 2731 valid, binding, and enforceable against the corporation or other
 2732 entity making such pledge or sale, and valid and binding against
 2733 and superior to any competing claims or obligations owed to any
 2734 other person or entity, including policyholders in this state,
 2735 asserting rights in any such assessments, revenues, or contract
 2736 rights or other rights or assets to the extent set forth in and
 2737 in accordance with the terms of the pledge or sale contained in
 2738 the applicable financing documents, whether or not any such
 2739 person or entity has notice of such pledge or sale and without
 2740 the need for any physical delivery, recordation, filing, or
 2741 other action.

2742 5. As long as the corporation has any bonds outstanding,
 2743 the corporation may not file a voluntary petition under chapter
 2744 9 of the federal Bankruptcy Code or such corresponding chapter
 2745 or sections as may be in effect, from time to time, and a public
 2746 officer or any organization, entity, or other person may not
 2747 authorize the corporation to be or become a debtor under chapter
 2748 9 of the federal Bankruptcy Code or such corresponding chapter
 2749 or sections as may be in effect, from time to time, during any
 2750 such period.

2751 6. If ordered by a court of competent jurisdiction, the
 2752 corporation may assume policies or otherwise provide coverage
 2753 for policyholders of an insurer placed in liquidation under
 2754 chapter 631, under such forms, rates, terms, and conditions as
 2755 the corporation deems appropriate, subject to approval by the
 2756 office.

2757 (x)1. The following records of the corporation are
 2758 confidential and exempt from the provisions of s. 119.07(1) and
 2759 s. 24(a), Art. I of the State Constitution:

2760 a. Underwriting files, except that a policyholder or an
 2761 applicant shall have access to his or her own underwriting
 2762 files. Confidential and exempt underwriting file records may
 2763 also be released to other governmental agencies upon written
 2764 request and demonstration of need; such records held by the
 2765 receiving agency remain confidential and exempt as provided
 2766 herein.

2767 b. Claims files, until termination of all litigation and
 2768 settlement of all claims arising out of the same incident,
 2769 although portions of the claims files may remain exempt, as
 2770 otherwise provided by law. Confidential and exempt claims file
 2771 records may be released to other governmental agencies upon
 2772 written request and demonstration of need; such records held by
 2773 the receiving agency remain confidential and exempt as provided
 2774 herein.

2775 c. Records obtained or generated by an internal auditor

2776 | pursuant to a routine audit, until the audit is completed, or if
 2777 | the audit is conducted as part of an investigation, until the
 2778 | investigation is closed or ceases to be active. An investigation
 2779 | is considered "active" while the investigation is being
 2780 | conducted with a reasonable, good faith belief that it could
 2781 | lead to the filing of administrative, civil, or criminal
 2782 | proceedings.

2783 | d. Matters reasonably encompassed in privileged attorney-
 2784 | client communications.

2785 | e. Proprietary information licensed to the corporation
 2786 | under contract and the contract provides for the confidentiality
 2787 | of such proprietary information.

2788 | f. All information relating to the medical condition or
 2789 | medical status of a corporation employee which is not relevant
 2790 | to the employee's capacity to perform his or her duties, except
 2791 | as otherwise provided in this paragraph. Information that is
 2792 | exempt shall include, but is not limited to, information
 2793 | relating to workers' compensation, insurance benefits, and
 2794 | retirement or disability benefits.

2795 | g. Upon an employee's entrance into the employee
 2796 | assistance program, a program to assist any employee who has a
 2797 | behavioral or medical disorder, substance abuse problem, or
 2798 | emotional difficulty that affects the employee's job
 2799 | performance, all records relative to that participation shall be
 2800 | confidential and exempt from the provisions of s. 119.07(1) and

2801 s. 24(a), Art. I of the State Constitution, except as otherwise
 2802 provided in s. 112.0455(11).

2803 h. Information relating to negotiations for financing,
 2804 reinsurance, depopulation, or contractual services, until the
 2805 conclusion of the negotiations.

2806 i. Minutes of closed meetings regarding underwriting
 2807 files, and minutes of closed meetings regarding an open claims
 2808 file until termination of all litigation and settlement of all
 2809 claims with regard to that claim, except that information
 2810 otherwise confidential or exempt by law shall be redacted.

2811 2. If an authorized insurer is considering underwriting a
 2812 risk insured by the corporation, relevant underwriting files and
 2813 confidential claims files may be released to the insurer
 2814 provided the insurer agrees in writing, notarized and under
 2815 oath, to maintain the confidentiality of such files. If a file
 2816 is transferred to an insurer, that file is no longer a public
 2817 record because it is not held by an agency subject to the
 2818 provisions of the public records law. Underwriting files and
 2819 confidential claims files may also be released to staff and the
 2820 board of governors of the market assistance plan established
 2821 pursuant to s. 627.3515, who must retain the confidentiality of
 2822 such files, except such files may be released to authorized
 2823 insurers that are considering assuming the risks to which the
 2824 files apply, provided the insurer agrees in writing, notarized
 2825 and under oath, to maintain the confidentiality of such files.

2826 Finally, the corporation or the board or staff of the market
 2827 assistance plan may make the following information obtained from
 2828 underwriting files and confidential claims files available to an
 2829 entity that has obtained a permit to become an authorized
 2830 insurer, a reinsurer that may provide reinsurance under s.
 2831 624.610, a licensed reinsurance broker, a licensed rating
 2832 organization, a modeling company, a licensed surplus lines
 2833 agent, or a licensed general lines insurance agent: name,
 2834 address, and telephone number of the residential property owner
 2835 or insured; location of the risk; rating information; loss
 2836 history; and policy type. The receiving person must retain the
 2837 confidentiality of the information received and may use the
 2838 information only for the purposes of developing a take-out plan
 2839 or a rating plan to be submitted to the office for approval or
 2840 otherwise analyzing the underwriting of a risk or risks insured
 2841 by the corporation on behalf of the private insurance market. A
 2842 licensed surplus lines agent or a licensed general lines
 2843 insurance agent may not use such information for the direct
 2844 solicitation of policyholders.

2845 3. A policyholder who has filed suit against the
 2846 corporation has the right to discover the contents of his or her
 2847 own claims file to the same extent that discovery of such
 2848 contents would be available from a private insurer in litigation
 2849 as provided by the Florida Rules of Civil Procedure, the Florida
 2850 Evidence Code, and other applicable law. Pursuant to subpoena, a

2851 | third party has the right to discover the contents of an
 2852 | insured's or applicant's underwriting or claims file to the same
 2853 | extent that discovery of such contents would be available from a
 2854 | private insurer by subpoena as provided by the Florida Rules of
 2855 | Civil Procedure, the Florida Evidence Code, and other applicable
 2856 | law, and subject to any confidentiality protections requested by
 2857 | the corporation and agreed to by the seeking party or ordered by
 2858 | the court. The corporation may release confidential underwriting
 2859 | and claims file contents and information as it deems necessary
 2860 | and appropriate to underwrite or service insurance policies and
 2861 | claims, subject to any confidentiality protections deemed
 2862 | necessary and appropriate by the corporation.

2863 | 4. Portions of meetings of the corporation are exempt from
 2864 | the provisions of s. 286.011 and s. 24(b), Art. I of the State
 2865 | Constitution wherein confidential underwriting files or
 2866 | confidential open claims files are discussed. All portions of
 2867 | corporation meetings which are closed to the public shall be
 2868 | recorded by a court reporter. The court reporter shall record
 2869 | the times of commencement and termination of the meeting, all
 2870 | discussion and proceedings, the names of all persons present at
 2871 | any time, and the names of all persons speaking. No portion of
 2872 | any closed meeting shall be off the record. Subject to the
 2873 | provisions hereof and s. 119.07(1)(d)-(f), the court reporter's
 2874 | notes of any closed meeting shall be retained by the corporation
 2875 | for a minimum of 5 years. A copy of the transcript, less any

2876 exempt matters, of any closed meeting wherein claims are
 2877 discussed shall become public as to individual claims after
 2878 settlement of the claim.

2879 (y) It is the intent of the Legislature that the
 2880 amendments to this subsection enacted in 2002 should, over time,
 2881 reduce the probable maximum windstorm losses in the residual
 2882 markets and the potential assessments to be levied on property
 2883 insurers and policyholders statewide.

2884 (z) In enacting the provisions of this section, the
 2885 Legislature recognizes that both the Florida Windstorm
 2886 Underwriting Association and the Residential Property and
 2887 Casualty Joint Underwriting Association have entered into
 2888 financing arrangements that obligate each entity to service its
 2889 debts and maintain the capacity to repay funds secured under
 2890 these financing arrangements. It is the intent of the
 2891 Legislature that nothing in this section be construed to
 2892 compromise, diminish, or interfere with the rights of creditors
 2893 under such financing arrangements. It is further the intent of
 2894 the Legislature to preserve the obligations of the Florida
 2895 Windstorm Underwriting Association and Residential Property and
 2896 Casualty Joint Underwriting Association with regard to
 2897 outstanding financing arrangements, with such obligations
 2898 passing entirely and unchanged to the corporation and,
 2899 specifically, to the Citizens ~~applicable~~ account of the
 2900 corporation. So long as any bonds, notes, indebtedness, or other

2901 financing obligations of the Florida Windstorm Underwriting
 2902 Association or the Residential Property and Casualty Joint
 2903 Underwriting Association are outstanding, under the terms of the
 2904 financing documents pertaining to them, the governing board of
 2905 the corporation shall have and shall exercise the authority to
 2906 levy, charge, collect, and receive all premiums, assessments,
 2907 surcharges, charges, revenues, and receipts that the
 2908 associations had authority to levy, charge, collect, or receive
 2909 under the provisions of subsection (2) and this subsection,
 2910 respectively, as they existed on January 1, 2002, to provide
 2911 moneys, without exercise of the authority provided by this
 2912 subsection, in at least the amounts, and by the times, as would
 2913 be provided under those former provisions of subsection (2) or
 2914 this subsection, respectively, so that the value, amount, and
 2915 collectability of any assets, revenues, or revenue source
 2916 pledged or committed to, or any lien thereon securing such
 2917 outstanding bonds, notes, indebtedness, or other financing
 2918 obligations will not be diminished, impaired, or adversely
 2919 affected by the amendments made by this act and to permit
 2920 compliance with all provisions of financing documents pertaining
 2921 to such bonds, notes, indebtedness, or other financing
 2922 obligations, or the security or credit enhancement for them, and
 2923 any reference in this subsection to bonds, notes, indebtedness,
 2924 financing obligations, or similar obligations, of the
 2925 corporation shall include like instruments or contracts of the

2926 Florida Windstorm Underwriting Association and the Residential
 2927 Property and Casualty Joint Underwriting Association to the
 2928 extent not inconsistent with the provisions of the financing
 2929 documents pertaining to them.

2930 (aa) Except as otherwise provided in this paragraph, the
 2931 corporation shall require the securing and maintaining of flood
 2932 insurance as a condition of coverage of a personal lines
 2933 residential risk. The insured or applicant must execute a form
 2934 approved by the office affirming that flood insurance is not
 2935 provided by the corporation and that if flood insurance is not
 2936 secured by the applicant or insured from an insurer other than
 2937 the corporation and in addition to coverage by the corporation,
 2938 the risk will not be eligible for coverage by the corporation.
 2939 The corporation may deny coverage of a personal lines
 2940 residential risk to an applicant or insured who refuses to
 2941 secure and maintain flood insurance. The requirement to purchase
 2942 flood insurance shall be implemented as follows:

2943 1. Except as provided in subparagraphs 2. and 3., all
 2944 personal lines residential policyholders must have flood
 2945 coverage in place for policies effective on or after:

2946 a. January 1, 2024, for a structure that has a dwelling
 2947 replacement cost of \$600,000 or more.

2948 b. January 1, 2025, for a structure that has a dwelling
 2949 replacement cost of \$500,000 or more.

2950 c. January 1, 2026, for a structure that has a dwelling

2951 replacement cost of \$400,000 or more.

2952 d. January 1, 2027, for all other personal lines
2953 residential property insured by the corporation.

2954 2. All personal lines residential policyholders whose
2955 property insured by the corporation is located within the
2956 special flood hazard area defined by the Federal Emergency
2957 Management Agency must have flood coverage in place:

2958 a. At the time of initial policy issuance for all new
2959 personal lines residential policies issued by the corporation on
2960 or after April 1, 2023.

2961 b. By the time of the policy renewal for all personal
2962 lines residential policies renewing on or after July 1, 2023.

2963 3. Policyholders are not required to purchase flood
2964 insurance as a condition for maintaining the following policies
2965 issued by the corporation:

2966 a. Policies that do not provide coverage for the peril of
2967 wind.

2968 b. Policies that provide coverage under a condominium unit
2969 owners form.

2970
2971 The flood insurance required under this paragraph must meet, at
2972 a minimum, the dwelling coverage available from the National
2973 Flood Insurance Program or the requirements of subparagraphs s.
2974 627.715(1) (a)1., 2., and 3.

2975 (bb) A salaried employee of the corporation who performs

2976 policy administration services subsequent to the effectuation of
 2977 a corporation policy is not required to be licensed as an agent
 2978 under the provisions of s. 626.112.

2979 (cc) There shall be no liability on the part of, and no
 2980 cause of action of any nature shall arise against, producing
 2981 agents of record of the corporation or employees of such agents
 2982 for insolvency of any take-out insurer.

2983 (dd) The assets of the corporation may be invested and
 2984 managed by the State Board of Administration.

2985 (ee) The office may establish a pilot program to offer
 2986 optional sinkhole coverage in one or more counties or other
 2987 territories of the corporation for the purpose of implementing
 2988 s. 627.706, as amended by s. 30, chapter 2007-1, Laws of
 2989 Florida. Under the pilot program, the corporation is not
 2990 required to issue a notice of nonrenewal to exclude sinkhole
 2991 coverage upon the renewal of existing policies, but may exclude
 2992 such coverage using a notice of coverage change.

2993 (ff) In establishing replacement costs for coverage on a
 2994 dwelling insured by the corporation, the corporation must accept
 2995 a valuation from any of the following sources and must use the
 2996 lowest valuation as the insured value of the dwelling, excluding
 2997 land value, provided the valuation was completed within the 12
 2998 months before the application or renewal date of coverage:

2999 1. A replacement cost valuation software that is
 3000 specifically designed for use in establishing insurance

3001 replacement costs and that includes an itemized calculation of
 3002 the cost of reconstruction;

3003 2. A replacement cost valuation prepared by a certified or
 3004 licensed real estate appraiser under part II of chapter 475 that
 3005 is specifically formulated to establish insurance replacement
 3006 cost, rather than market value, and which includes an itemized
 3007 calculation of the cost of reconstruction; or

3008 3. A replacement cost valuation prepared by a general,
 3009 building, or residential contractor licensed under s. 489.113,
 3010 or a professional engineer licensed under s. 471.015, which
 3011 includes an itemized calculation of the total price of
 3012 reconstruction.

3013 (gg) The Office of Inspector General is established within
 3014 the corporation to provide a central point for coordination of
 3015 and responsibility for activities that promote accountability,
 3016 integrity, and efficiency. The office shall be headed by an
 3017 inspector general, which is a senior management position that
 3018 involves planning, coordinating, and performing activities
 3019 assigned to and assumed by the inspector general for the
 3020 corporation.

3021 1. The inspector general shall be appointed by the
 3022 Financial Services Commission and may only be removed from
 3023 office by the commission. The inspector general shall be
 3024 appointed without regard to political affiliation.

3025 a. At a minimum, the inspector general must possess a

3026 bachelor's degree from an accredited college or university and 8
 3027 years of professional experience related to the duties of an
 3028 inspector general as described in this paragraph, of which 5
 3029 years must have been at a supervisory level.

3030 b. The inspector general shall report to, and be under the
 3031 supervision of, the chair of the board of governors. The
 3032 executive director or corporation staff may not prevent or
 3033 prohibit the inspector general from initiating, carrying out, or
 3034 completing any audit, review, evaluation, study, or
 3035 investigation.

3036 2. The inspector general shall initiate, direct,
 3037 coordinate, participate in, and perform audits, reviews,
 3038 evaluations, studies, and investigations designed to assess
 3039 management practices; compliance with laws, rules, and policies;
 3040 and program effectiveness and efficiency. This includes:

3041 a. Conducting internal examinations; investigating
 3042 allegations of fraud, waste, abuse, malfeasance, mismanagement,
 3043 employee misconduct, or violations of corporation policies; and
 3044 conducting any other investigations as directed by the Financial
 3045 Services Commission or as independently determined.

3046 b. Evaluating and recommending actions regarding security,
 3047 the ethical behavior of personnel and vendors, and compliance
 3048 with rules, laws, policies, and personnel matters; and rendering
 3049 ethics opinions.

3050 c. Evaluating personnel and administrative policy

3051 compliance, management and operational matters, and human
 3052 resources-related matters.

3053 d. Evaluating the application of a corporation code of
 3054 ethics, providing reviews and recommendations on the design and
 3055 content of ethics-related policy training courses, educating
 3056 employees on the code and on appropriate conduct, and checking
 3057 for compliance.

3058 e. Evaluating the activities of the senior management team
 3059 and management's compliance with recommended solutions.

3060 f. Cooperating and coordinating activities with the chief
 3061 of internal audit.

3062 g. Maintaining records of investigations and discipline in
 3063 accordance with established policies, or as otherwise required.

3064 h. Supervising and directing the tasks and assignments of
 3065 the staff assigned to assist with the inspector general's
 3066 projects, including regular review and feedback regarding work
 3067 in progress and providing recommendations regarding relevant
 3068 training and staff development activities.

3069 i. Directing, planning, preparing, and presenting interim
 3070 and final reports and oral briefings which communicate the
 3071 results of studies, reviews, and investigations.

3072 j. Providing the executive director with independent and
 3073 objective assessments of programs and activities.

3074 k. Completing special projects, assignments, and other
 3075 duties as requested by the Financial Services Commission.

3076 1. Reporting expeditiously to the Department of Law
 3077 Enforcement or other law enforcement agencies, as appropriate,
 3078 whenever the inspector general has reasonable grounds to believe
 3079 there has been a violation of criminal law.

3080 (hh) The corporation shall prepare a report for each
 3081 calendar year outlining both the statewide average and county-
 3082 specific details of the loss ratio attributable to losses that
 3083 are not catastrophic losses for residential coverage provided by
 3084 the corporation, which information must be presented to the
 3085 office and available for public inspection on the Internet
 3086 website of the corporation by March 1 of the following calendar
 3087 year.

3088 (ii) The corporation shall revise the programs adopted
 3089 pursuant to sub-subparagraph (q)3.a. for personal lines
 3090 residential policies to maximize policyholder options and
 3091 encourage increased participation by insurers and agents. After
 3092 January 1, 2017, a policy may not be taken out of the
 3093 corporation unless the provisions of this paragraph are met.

3094 1. The corporation must publish a periodic schedule of
 3095 cycles during which an insurer may identify, and notify the
 3096 corporation of, policies that the insurer is requesting to take
 3097 out. A request must include a description of the coverage
 3098 offered and an estimated premium and must be submitted to the
 3099 corporation in a form and manner prescribed by the corporation.

3100 2. The corporation must maintain and make available to the

3101 agent of record a consolidated list of all insurers requesting
 3102 to take out a policy. The list must include a description of the
 3103 coverage offered and the estimated premium for each take-out
 3104 request.

3105 3. If a policyholder receives a take-out offer from an
 3106 authorized insurer, the risk is no longer eligible for coverage
 3107 with the corporation unless the premium for coverage from the
 3108 authorized insurer is more than 20 percent greater than the
 3109 renewal premium for comparable coverage from the corporation
 3110 pursuant to sub-subparagraph (c)5.c. This subparagraph applies
 3111 to take-out offers that are part of an application to
 3112 participate in depopulation submitted to the office on or after
 3113 January 1, 2023. This subparagraph only applies to a policy that
 3114 covers a primary residence.

3115 4. The corporation must provide written notice to the
 3116 policyholder and the agent of record regarding all insurers
 3117 requesting to take out the policy. The notice must be in a
 3118 format prescribed by the corporation and include, for each take-
 3119 out offer:

- 3120 a. The amount of the estimated premium;
- 3121 b. A description of the coverage; and
- 3122 c. A comparison of the estimated premium and coverage
 3123 offered by the insurer to the estimated premium and coverage
 3124 provided by the corporation.

3125 (jj) The corporation's budget allocations for the

3126 compensation of all corporation employees and any proposed raise
 3127 for an individual employee exceeding 10 percent of that
 3128 employee's current salary must be approved by the board of
 3129 governors. The corporation must have an overall employee
 3130 compensation plan approved by the board of governors.

3131 (kk) A corporation policyholder making a claim for water
 3132 damage against the corporation has the burden of proving that
 3133 the damage was not caused by flooding.

3134 (ll) The corporation may share its claims data with the
 3135 National Insurance Crime Bureau, provided that the National
 3136 Insurance Crime Bureau agrees to maintain the confidentiality of
 3137 such documents as otherwise provided for in paragraph (x).

3138 (mm)~~(ll)~~1. In addition to any other method of alternative
 3139 dispute resolution authorized by state law, the corporation may
 3140 adopt policy forms that provide for the resolution of disputes
 3141 regarding its claim determinations, including disputes regarding
 3142 coverage for, or the scope and value of, a claim, in a
 3143 proceeding before the Division of Administrative Hearings. Any
 3144 such policies are not subject to s. 627.70154. All proceedings
 3145 in the Division of Administrative Hearings pursuant to such
 3146 policies are subject to ss. 57.105 and 768.79 as if filed in the
 3147 courts of this state and are not considered chapter 120
 3148 administrative proceedings. Rule 1.442, Florida Rules of Civil
 3149 Procedure, applies to any offer served pursuant to s. 768.79,
 3150 except that, notwithstanding any provision in Rule 1.442,

3151 Florida Rules of Civil Procedure, to the contrary, an offer
 3152 shall not be served earlier than 10 days after filing the
 3153 request for hearing with the Division of Administrative Hearings
 3154 and shall not be served later than 10 days before the date set
 3155 for the final hearing. The administrative law judge in such
 3156 proceedings shall award attorney fees and other relief pursuant
 3157 to ss. 57.105 and 768.79. The corporation may not seek, and the
 3158 office may not approve, a maximum hourly rate for attorney fees.

3159 2. The corporation may contract with the division to
 3160 conduct proceedings to resolve disputes regarding its claim
 3161 determinations as may be provided for in the applicable policies
 3162 of insurance.

3163 (nn) ~~(mm)~~ The corporation may not determine that a risk is
 3164 ineligible for coverage with the corporation solely because such
 3165 risk has unrepaired damage caused by a covered loss that is the
 3166 subject of a claim that has been filed with the Florida
 3167 Insurance Guaranty Association. This paragraph applies to a risk
 3168 until the earlier of 24 months after the date the Florida
 3169 Insurance Guaranty Association began servicing such claim or the
 3170 Florida Insurance Guaranty Association closes the claim.

3171 (7) PATENTS, COPYRIGHTS, OR TRADEMARKS.—Notwithstanding
 3172 any other provision of law to the contrary, the corporation may,
 3173 in its own name:

3174 (a) Perform all things necessary to secure letters of
 3175 patent, copyrights, or trademarks on any work products and

3176 enforce its rights therein.

3177 (b) License, lease, assign, or otherwise give written
 3178 consent to any person, firm, or other corporation for the
 3179 manufacture or use of patents, copyrights, or trademarks on any
 3180 work products and rights therein on a royalty basis or for such
 3181 other consideration as the corporation deems proper.

3182 (c) Take any action necessary, including legal action, to
 3183 protect the manufacture or use of patents, copyrights, or
 3184 trademarks on any work products and rights therein against
 3185 improper or unlawful use or infringement.

3186 (d) Enforce the collection of any sums due the corporation
 3187 for the manufacture or use of patents, copyrights, or trademarks
 3188 on any work products and rights therein by any other party.

3189 (e) Sell any of the manufacture or use of patents,
 3190 copyrights, or trademarks on any work products and rights
 3191 therein and execute all instruments necessary to consummate any
 3192 such sale.

3193 (f) Do all other acts necessary and proper for the
 3194 execution of powers and duties conferred upon the corporation in
 3195 order to administer this subsection.

3196 Section 2. Effective upon becoming a law, paragraph (aa)
 3197 of subsection (6) of section 627.351, Florida Statutes, is
 3198 amended to read:

3199 627.351 Insurance risk apportionment plans.—

3200 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

3201 (aa) Except as otherwise provided in this paragraph, the
 3202 corporation shall require the securing and maintaining of flood
 3203 insurance as a condition of coverage of a personal lines
 3204 residential risk. The insured or applicant must execute a form
 3205 approved by the office affirming that flood insurance is not
 3206 provided by the corporation and that if flood insurance is not
 3207 secured by the applicant or insured from an insurer other than
 3208 the corporation and in addition to coverage by the corporation,
 3209 the risk will not be eligible for coverage by the corporation.
 3210 The corporation may deny coverage of a personal lines
 3211 residential risk to an applicant or insured who refuses to
 3212 secure and maintain flood insurance. The requirement to purchase
 3213 flood insurance shall be implemented as follows:

3214 1. Except as provided in subparagraphs 2. and 3., all
 3215 personal lines residential policyholders must have flood
 3216 coverage in place for policies effective on or after:

3217 a. January 1, 2024, for a structure that has a dwelling
 3218 replacement cost of \$600,000 or more.

3219 b. January 1, 2025, for a structure that has a dwelling
 3220 replacement cost of \$500,000 or more.

3221 c. January 1, 2026, for a structure that has a dwelling
 3222 replacement cost of \$400,000 or more.

3223 d. January 1, 2027, for all other personal lines
 3224 residential property insured by the corporation.

3225 2. All personal lines residential policyholders whose

3226 property insured by the corporation is located within the
 3227 special flood hazard area defined by the Federal Emergency
 3228 Management Agency must have flood coverage in place:

3229 a. At the time of initial policy issuance for all new
 3230 personal lines residential policies issued by the corporation on
 3231 or after April 1, 2023.

3232 b. By the time of the policy renewal for all personal
 3233 lines residential policies renewing on or after July 1, 2023.

3234 3. Policyholders are not required to purchase flood
 3235 insurance as a condition for maintaining the following policies
 3236 issued by the corporation:

3237 a. Policies that do not provide coverage for the peril of
 3238 wind.

3239 b. Policies that provide coverage under a condominium unit
 3240 owners form.

3241
 3242 The flood insurance required under this paragraph must meet, at
 3243 a minimum, the dwelling coverage available from the National
 3244 Flood Insurance Program or the requirements of subparagraphs s.
 3245 627.715(1)(a)1., 2., and 3.

3246 Section 3. Subsections (3) and (5) and paragraphs (d),
 3247 (e), and (f) of subsection (6) of section 627.3511, Florida
 3248 Statutes, are amended to read:

3249 627.3511 Depopulation of Citizens Property Insurance
 3250 Corporation.—

3251 (3) EXEMPTION FROM DEFICIT ASSESSMENTS.—

3252 ~~(a) The calculation of an insurer's assessment liability~~
 3253 ~~under s. 627.351(6)(b)3.a. shall, for an insurer that in any~~
 3254 ~~calendar year removes 50,000 or more risks from the Citizens~~
 3255 ~~Property Insurance Corporation, either by issuance of a policy~~
 3256 ~~upon expiration or cancellation of the corporation policy or by~~
 3257 ~~assumption of the corporation's obligations with respect to in-~~
 3258 ~~force policies, exclude such removed policies for the succeeding~~
 3259 ~~3 years, as follows:~~

3260 1. ~~In the first year following removal of the risks, the~~
 3261 ~~risks are excluded from the calculation to the extent of 100~~
 3262 ~~percent.~~

3263 2. ~~In the second year following removal of the risks, the~~
 3264 ~~risks are excluded from the calculation to the extent of 75~~
 3265 ~~percent.~~

3266 3. ~~In the third year following removal of the risks, the~~
 3267 ~~risks are excluded from the calculation to the extent of 50~~
 3268 ~~percent.~~

3269
 3270 ~~If the removal of risks is accomplished through assumption of~~
 3271 ~~obligations with respect to in-force policies, the corporation~~
 3272 ~~shall pay to the assuming insurer all unearned premium with~~
 3273 ~~respect to such policies less any policy acquisition costs~~
 3274 ~~agreed to by the corporation and assuming insurer. The term~~
 3275 ~~"policy acquisition costs" is defined as costs of issuance of~~

3276 ~~the policy by the corporation which includes agent commissions,~~
 3277 ~~servicing company fees, and premium tax. This paragraph does not~~
 3278 ~~apply to an insurer that, at any time within 5 years before~~
 3279 ~~removing the risks, had a market share in excess of 0.1 percent~~
 3280 ~~of the statewide aggregate gross direct written premium for any~~
 3281 ~~line of property insurance, or to an affiliate of such an~~
 3282 ~~insurer. This paragraph does not apply unless either at least 40~~
 3283 ~~percent of the risks removed from the corporation are located in~~
 3284 ~~Miami-Dade, Broward, and Palm Beach Counties, or at least 30~~
 3285 ~~percent of the risks removed from the corporation are located in~~
 3286 ~~such counties and an additional 50 percent of the risks removed~~
 3287 ~~from the corporation are located in other coastal counties.~~

3288 ~~(b) An insurer that first wrote personal lines residential~~
 3289 ~~property coverage in this state on or after July 1, 1994, is~~
 3290 ~~exempt from regular deficit assessments imposed pursuant to s.~~
 3291 ~~627.351(6)(b)3.a., but not emergency assessments collected from~~
 3292 ~~policyholders pursuant to s. 627.351(6)(b)3.e., of the Citizens~~
 3293 ~~Property Insurance Corporation until the earlier of the~~
 3294 ~~following:~~

3295 ~~1. The end of the calendar year in which it first wrote~~
 3296 ~~0.5 percent or more of the statewide aggregate direct written~~
 3297 ~~premium for any line of residential property coverage; or~~

3298 ~~2. December 31, 1997, or December 31 of the third year in~~
 3299 ~~which it wrote such coverage in this state, whichever is later.~~

3300 ~~(c) Other than an insurer that is exempt under paragraph~~

3301 ~~(b), an insurer that in any calendar year increases its total~~
 3302 ~~structure exposure subject to wind coverage by 25 percent or~~
 3303 ~~more over its exposure for the preceding calendar year is, with~~
 3304 ~~respect to that year, exempt from deficit assessments imposed~~
 3305 ~~pursuant to s. 627.351(6) (b)3.a., but not emergency assessments~~
 3306 ~~collected from policyholders pursuant to s. 627.351(6) (b)3.e.,~~
 3307 ~~of the Citizens Property Insurance Corporation attributable to~~
 3308 ~~such increase in exposure.~~

3309 ~~(d)~~ Any exemption or credit from regular assessments
 3310 authorized by this section shall last no longer than 3 years
 3311 following the cancellation or expiration of the policy by the
 3312 corporation. With the approval of the office, the board may
 3313 extend such credits for an additional year if the insurer
 3314 guarantees an additional year of renewability for all policies
 3315 removed from the corporation, or for 2 additional years if the
 3316 insurer guarantees 2 additional years of renewability for all
 3317 policies so removed.

3318 (5) APPLICABILITY.—

3319 ~~(a)~~ The take-out bonus provided by subsection (2) applies
 3320 ~~and the exemption from assessment provided by paragraph (3)(a)~~
 3321 ~~apply~~ only if the corporation policy is replaced by a standard
 3322 policy including wind coverage or, if consistent with the
 3323 insurer's underwriting rules filed with the office, a basic
 3324 policy including wind coverage; however, for risks located in
 3325 areas where coverage through the coastal account of the

3326 corporation is available, the replacement policy need not
 3327 provide wind coverage. The insurer must renew the replacement
 3328 policy at approved rates on substantially similar terms for four
 3329 additional 1-year terms, unless canceled or not renewed by the
 3330 policyholder. If an insurer assumes the corporation's
 3331 obligations for a policy, it must issue a replacement policy for
 3332 a 1-year term upon expiration of the corporation policy and must
 3333 renew the replacement policy at approved rates on substantially
 3334 similar terms for four additional 1-year terms, unless canceled
 3335 or not renewed by the policyholder. For each replacement policy
 3336 canceled or nonrenewed by the insurer for any reason during the
 3337 5-year coverage period, the insurer must remove from the
 3338 corporation one additional policy covering a risk similar to the
 3339 risk covered by the canceled or nonrenewed policy. In addition,
 3340 the corporation must place the bonus moneys in escrow for 5
 3341 years; such moneys may be released from escrow only to pay
 3342 claims. If the policy is canceled or nonrenewed before the end
 3343 of the 5-year period, the amount of the take-out bonus must be
 3344 prorated for the time period the policy was insured. A take-out
 3345 bonus provided by subsection (2) or subsection (6) is not
 3346 premium income for purposes of taxes and assessments under the
 3347 Florida Insurance Code and remains the property of the
 3348 corporation, subject to the prior security interest of the
 3349 insurer under the escrow agreement until it is released from
 3350 escrow; after it is released from escrow it is considered an

3351 asset of the insurer and credited to the insurer's capital and
 3352 surplus.

3353 ~~(b) It is the intent of the Legislature that an insurer~~
 3354 ~~eligible for the exemption under paragraph (3) (a) establish a~~
 3355 ~~preference in appointment of agents for those agents who lose a~~
 3356 ~~substantial amount of business as a result of risks being~~
 3357 ~~removed from the corporation.~~

3358 (6) COMMERCIAL RESIDENTIAL TAKE-OUT PLANS.—

3359 ~~(d) The calculation of an insurer's regular assessment~~
 3360 ~~liability under s. 627.351(6) (b)3.a., but not emergency~~
 3361 ~~assessments collected from policyholders pursuant to s.~~
 3362 ~~627.351(6) (b)3.c., shall, with respect to commercial residential~~
 3363 ~~policies removed from the corporation under an approved take-out~~
 3364 ~~plan, exclude such removed policies for the succeeding 3 years,~~
 3365 ~~as follows:~~

3366 1. ~~In the first year following removal of the policies,~~
 3367 ~~the policies are excluded from the calculation to the extent of~~
 3368 ~~100 percent.~~

3369 2. ~~In the second year following removal of the policies,~~
 3370 ~~the policies are excluded from the calculation to the extent of~~
 3371 ~~75 percent.~~

3372 3. ~~In the third year following removal of the policies,~~
 3373 ~~the policies are excluded from the calculation to the extent of~~
 3374 ~~50 percent.~~

3375 ~~(e) An insurer that first wrote commercial residential~~

3376 ~~property coverage in this state on or after June 1, 1996, is~~
 3377 ~~exempt from regular assessments under s. 627.351(6)(b)3.a., but~~
 3378 ~~not emergency assessments collected from policyholders pursuant~~
 3379 ~~to s. 627.351(6)(b)3.c., with respect to commercial residential~~
 3380 ~~policies until the earlier of:~~

3381 ~~1. The end of the calendar year in which such insurer~~
 3382 ~~first wrote 0.5 percent or more of the statewide aggregate~~
 3383 ~~direct written premium for commercial residential property~~
 3384 ~~coverage; or~~

3385 ~~2. December 31 of the third year in which such insurer~~
 3386 ~~wrote commercial residential property coverage in this state.~~

3387 ~~(f) An insurer that is not otherwise exempt from regular~~
 3388 ~~assessments under s. 627.351(6)(b)3.a. with respect to~~
 3389 ~~commercial residential policies is, for any calendar year in~~
 3390 ~~which such insurer increased its total commercial residential~~
 3391 ~~hurricane exposure by 25 percent or more over its exposure for~~
 3392 ~~the preceding calendar year, exempt from regular assessments~~
 3393 ~~under s. 627.351(6)(b)3.a., but not emergency assessments~~
 3394 ~~collected from policyholders pursuant to s. 627.351(6)(b)3.c.,~~
 3395 ~~attributable to such increased exposure.~~

3396 Section 4. Subsections (5), (6), and (7) of section
 3397 627.3518, Florida Statutes, are amended to read:

3398 627.3518 Citizens Property Insurance Corporation
 3399 policyholder eligibility clearinghouse program.—The purpose of
 3400 this section is to provide a framework for the corporation to

3401 implement a clearinghouse program by January 1, 2014.

3402 (5) Notwithstanding s. 627.3517, any applicant for new

3403 coverage from the corporation is not eligible for coverage from

3404 the corporation if provided an offer of coverage from an

3405 authorized insurer through the program at a premium that is at

3406 or below the eligibility threshold for applicants for new

3407 coverage established in s. 627.351(6)(c)5.a. An applicant for

3408 new coverage from the corporation on a risk that is not a

3409 primary residence is not eligible for coverage from the

3410 corporation if provided an offer of coverage from an authorized

3411 insurer through the program if such offer would render the risk

3412 ineligible pursuant to s. 627.351(6)(c)5.d. Whenever an offer of

3413 coverage for a personal lines risk that is a primary residence

3414 is received for a policyholder of the corporation at renewal

3415 from an authorized insurer through the program which is at or

3416 below the eligibility threshold for policyholders of the

3417 corporation established in s. 627.351(6)(c)5.a., the risk is not

3418 eligible for coverage with the corporation. Whenever an offer of

3419 coverage for a personal lines risk that is not a primary

3420 residence is received for a policyholder of the corporation at

3421 renewal from an authorized insurer through the program, the risk

3422 is not eligible for coverage with the corporation if such offer

3423 would render the risk ineligible pursuant to s.

3424 627.351(6)(c)5.d. In the event an offer of coverage on a primary

3425 residence for a new applicant is received from an authorized

3426 insurer through the program, and the premium offered exceeds the
 3427 eligibility threshold for applicants for new coverage
 3428 established in s. 627.351(6)(c)5.a., the applicant or insured
 3429 may elect to accept such coverage, or may elect to accept or
 3430 continue coverage with the corporation. In the event an offer of
 3431 coverage for a personal lines risk that is a primary residence
 3432 is received from an authorized insurer at renewal through the
 3433 program, and the premium offered exceeds the eligibility
 3434 threshold for policyholders of the corporation established in s.
 3435 627.351(6)(c)5.a., the insured may elect to accept such
 3436 coverage, or may elect to accept or continue coverage with the
 3437 corporation. Section 627.351(6)(c)5.a.(I) does not apply to an
 3438 offer of coverage from an authorized insurer obtained through
 3439 the program. As used in this subsection, the term "primary
 3440 residence" has the same meaning as in s. 627.351(6)(c)2.a.

3441 (6) Independent insurance agents submitting new
 3442 applications for coverage or that are the agent of record on a
 3443 renewal policy submitted to the program:

3444 (a) Are granted and must maintain ownership and the
 3445 exclusive use of expirations, records, or other written or
 3446 electronic information directly related to such applications or
 3447 renewals written through the corporation or through an insurer
 3448 participating in the program, notwithstanding s.
 3449 627.351(6)(c)5.a.(I)(B) and (II)(B) or s.
 3450 627.351(6)(c)5.d.(I)(B) and (II)(B). Such ownership is granted

3451 for as long as the insured remains with the agency or until sold
 3452 or surrendered in writing by the agent. Contracts with the
 3453 corporation or required by the corporation must not amend,
 3454 modify, interfere with, or limit such rights of ownership. Such
 3455 expirations, records, or other written or electronic information
 3456 may be used to review an application, issue a policy, or for any
 3457 other purpose necessary for placing such business through the
 3458 program.

3459 (b) May not be required to be appointed by any insurer
 3460 participating in the program for policies written solely through
 3461 the program, notwithstanding the provisions of s. 626.112.

3462 (c) May accept an appointment from any insurer
 3463 participating in the program.

3464 (d) May enter into either a standard or limited agency
 3465 agreement with the insurer, at the insurer's option.

3466
 3467 Applicants ineligible for coverage in accordance with subsection
 3468 (5) remain ineligible if their independent agent is unwilling or
 3469 unable, to enter into a standard or limited agency agreement
 3470 with an insurer participating in the program.

3471 (7) Exclusive agents submitting new applications for
 3472 coverage or that are the agent of record on a renewal policy
 3473 submitted to the program:

3474 (a) Must maintain ownership and the exclusive use of
 3475 expirations, records, or other written or electronic information

3476 directly related to such applications or renewals written
 3477 through the corporation or through an insurer participating in
 3478 the program, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and
 3479 (II)(B) or s. 627.351(6)(c)5.d.(I)(B) and (II)(B). Contracts
 3480 with the corporation or required by the corporation must not
 3481 amend, modify, interfere with, or limit such rights of
 3482 ownership. Such expirations, records, or other written or
 3483 electronic information may be used to review an application,
 3484 issue a policy, or for any other purpose necessary for placing
 3485 such business through the program.

3486 (b) May not be required to be appointed by any insurer
 3487 participating in the program for policies written solely through
 3488 the program, notwithstanding the provisions of s. 626.112.

3489 (c) Must only facilitate the placement of an offer of
 3490 coverage from an insurer whose limited servicing agreement is
 3491 approved by that exclusive agent's exclusive insurer.

3492 (d) May enter into a limited servicing agreement with the
 3493 insurer making an offer of coverage, and only after the
 3494 exclusive agent's insurer has approved the limited servicing
 3495 agreement terms. The exclusive agent's insurer must approve a
 3496 limited service agreement for the program for any insurer for
 3497 which it has approved a service agreement for other purposes.

3498
 3499 Applicants ineligible for coverage in accordance with subsection
 3500 (5) remain ineligible if their exclusive agent is unwilling or

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3501 | unable to enter into a standard or limited agency agreement with
3502 | an insurer making an offer of coverage to that applicant.

3503 | Section 5. Except as otherwise expressly provided in this
3504 | act and except for this section, which shall take effect upon
3505 | this act becoming a law, this act shall take effect July 1,
3506 | 2024.