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A bill to be entitled An act relating to windstorm coverage by Citizens Property Insurance Corporation; amending s. 627.351, F.S.; removing provisions relating to windstorm risk apportionment plan agreements among property insurers; revising legislative findings; revising the purpose of the Citizens Property Insurance Corporation; requiring the corporation to make windstorm coverage available to homeowners for any residential structures; providing requirements for the windstorm coverage; providing construction; removing obsolete language; authorizing homeowners to obtain windstorm coverage from certain insurance agents; providing underwriting and administering requirements for the windstorm coverage portion of insurance; providing administrative fees; providing requirements for claims settlement payments; removing obsolete dates; requiring the corporation to make windstorm coverage available for commercial lines residential structures; providing requirements for the windstorm coverage; providing construction; revising requirements for the corporation's plan of operation; removing certain definitions; revising certain statements obtained by agents from applicants for coverage from the corporation; providing definitions; amending s.

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26 215.555, F.S.; removing obsolete language; conforming 27 a cross-reference; conforming a provision to changes 28 made by the act; amending ss. 215.5595, 624.805, 627.062, 627.0628, 627.06281, 627.0629, 627.4025, 29 30 627.701, 627.7018, 627.711, 627.712, 627.713, 631.54, 718.111, 719.104, and 720.303, F.S.; conforming 31 32 provisions to changes made by the act; amending ss. 395.1061, 458.320, 459.0085, 464.0123, 624.424, 33 624.462, 625.317, and 627.0655, F.S.; conforming 34 35 cross-references; amending s. 627.3511, F.S.; 36 conforming cross-references; conforming provisions to 37 changes made by the act; amending ss. 627.3512, 627.3513, 627.3515, 627.3517, and 627.3518, F.S.; 38 39 conforming cross-references; amending s. 627.4133, F.S.; conforming a cross-reference; conforming a 40 41 provision to changes made by the act; amending ss. 627.945 and 628.6017, F.S.; conforming cross-42 references; providing an effective date. 43

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

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Section 1. Subsections (3) through (8) of section 627.351, Florida Statutes, are renumbered as subsections (2) through (7), respectively, paragraphs (w), (x), (y), and (aa) through (nn) of present subsection (6) are redesignated as paragraphs (v), (w),

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(x), and (y) through (11) of new subsection (5), respectively,
present subsections (2) and (5) and paragraphs (a), (b), (c),
and (o) and present paragraphs (v), (z), and (nn) of present
subsection (6) are amended, and a new paragraph (mm) is added to
present subsection (6) of that section, to read:

627.351 Insurance risk apportionment plans.—

(2) WINDSTORM INSURANCE RISK APPORTIONMENT.-

(a) Agreements may be made among property insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to, but are unable to procure, such insurance through ordinary methods; and such insurers may agree among themselves on the use of reasonable rate modifications for such insurance. Such agreements and rate modifications shall be subject to the applicable provisions of this chapter.

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

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

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

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

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insurers. Such participation by member insurers shall be in the proportion that the net direct premiums of each member insurer written for property insurance in this state during the preceding calendar year bear to the aggregate net direct premiums for property insurance of all member insurers, as reduced by any credits for voluntary writings, in this state during the preceding calendar year. For the purposes of this subsection, the term "net direct premiums" means direct written premiums for property insurance, reduced by premium for liability coverage and for the following if included in allied lines: rain and hail on growing crops; livestock; association direct premiums booked; National Flood Insurance Program direct premiums; and similar deductions specifically authorized by the plan of operation and approved by the department. A member's participation shall begin on the first day of the calendar year following the year in which it is issued a certificate of authority to transact property insurance in the state and shall terminate 1 year after the end of the calendar year during which it no longer holds a certificate of authority to transact property insurance in the state. The commissioner, after review of annual statements, other reports, and any other statistics that the commissioner deems necessary, shall certify to the association the aggregate direct premiums written for property insurance in this state by all member insurers. (II) Effective July 1, 2002, the association shall operate

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subject to the supervision and approval of a board of governors who are the same individuals that have been appointed by the Treasurer to serve on the board of governors of the Citizens Property Insurance Corporation.

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

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

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

(VI) The plan of operation may also provide for the award of credits, for a period not to exceed 3 years, from a regular assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-subparagraph d.(II) as an incentive for taking policies out of the Residential Property and Casualty Joint Underwriting Association. In order to qualify for the exemption under this sub-sub-subparagraph, the take-out plan must provide that at least 40 percent of the policies removed from the Residential Property and Casualty Joint Underwriting Association cover risks

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located in Miami-Dade, Broward, and Palm Beach Counties or at least 30 percent of the policies so removed cover risks located in Miami-Dade, Broward, and Palm Beach Counties and an additional 50 percent of the policies so removed cover risks located in other coastal counties, and must also provide that no more than 15 percent of the policies so removed may exclude windstorm coverage. With the approval of the department, the association may waive these geographic criteria for a take-out plan that removes at least the lesser of 100,000 Residential Property and Casualty Joint Underwriting Association policies or 15 percent of the total number of Residential Property and Casualty Joint Underwriting Association policies, provided the governing board of the Residential Property and Casualty Joint Underwriting Association certifies that the take-out plan will materially reduce the Residential Property and Casualty Joint Underwriting Association's 100-year probable maximum loss from hurricanes. With the approval of the department, the board may extend such credits for an additional year if the insurer quarantees an additional year of renewability for all policies removed from the Residential Property and Casualty Joint Underwriting Association, or for 2 additional years if the insurer guarantees 2 additional years of renewability for all policies removed from the Residential Property and Casualty Joint Underwriting Association. Assessments to pay deficits in the association under

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this subparagraph shall be included as an appropriate factor in the making of rates as provided in s. 627.3512.

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

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

(II) When the deficit incurred in a particular calendar year exceeds 10 percent of the aggregate statewide direct written premium for property insurance for the prior calendar year for all member insurers, the association shall levy an assessment on member insurers in an amount equal to the greater of 10 percent of the deficit or 10 percent of the aggregate statewide direct written premium for property insurance for the prior calendar year for member insurers. Any remaining deficit

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shall be recovered through emergency assessments under sub-subsubparagraph (III).

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

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emergency assessments so collected shall be transferred directly to the association on a periodic basis as determined by the association. The aggregate amount of emergency assessments levied under this sub-sub-subparagraph in any calendar year may not exceed the greater of 10 percent of the amount needed to cover the original deficit, plus interest, fees, commissions, required reserves, and other costs associated with financing of the original deficit, or 10 percent of the aggregate statewide direct written premium for property insurance written by member insurers and underwriting associations for the prior year, plus interest, fees, commissions, required reserves, and other costs associated with financing the original deficit. The board may pledge the proceeds of the emergency assessments under this subsub-subparagraph as the source of revenue for bonds, to retire any other debt incurred as a result of the deficit or events giving rise to the deficit, or in any other way that the board determines will efficiently recover the deficit. The emergency assessments under this sub-sub-subparagraph shall continue long as any bonds issued or other indebtedness incurred with to a deficit for which the assessment was imposed remain outstanding, unless adequate provision has been made for the payment of such bonds or other indebtedness pursuant to the document governing such bonds or other indebtedness. Emergency assessments collected under this sub-sub-subparagraph are not part of an insurer's rates, are not premium, and are not subject

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to premium tax, fees, or commissions; however, failure to pay the emergency assessment shall be treated as failure to pay premium.

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

(V) If regular deficit assessments are made under sub-sub-subparagraph (I) or sub-sub-subparagraph (II), the association shall levy upon the association's policyholders, as part of its next rate filing, or by a separate rate filing solely for this purpose, a market equalization surcharge in a percentage equal to the total amount of such regular assessments divided by the aggregate statewide direct written premium for property insurance for member insurers for the prior calendar year.

Market equalization surcharges under this sub-sub-subparagraph are not considered premium and are not subject to commissions, fees, or premium taxes; however, failure to pay a market equalization surcharge shall be treated as failure to pay premium.

The governing body of any unit of local government, any

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

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

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

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exceed its gross participation, which shall not be affected by the formula for voluntary writings. In no event shall a limited apportionment company be required to participate in any apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds \$50 million after payment of available plan funds in any calendar year. However, a limited apportionment company shall collect from its policyholders any emergency assessment imposed under sub-sub-subparagraph 2.d.(III). The plan shall provide that, if the department determines that any regular assessment will result in an impairment of the surplus of a limited apportionment company, the department may direct that all or part of such assessment be deferred. However, there shall be no limitation or deferment of an emergency assessment to be collected from policyholders under sub-sub-subparagraph 2.d.(III). 4. The plan shall provide for the deferment, in whole or in part, of a regular assessment of a member insurer under sub-

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

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

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

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

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

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replacement cost or actual cash value of the property, at the option of the insured, if coverage for the risk cannot be located in the authorized market. The association must accept a commercial lines residential risk with limits above \$10 million or a personal lines residential risk with limits above \$1 million if coverage is not available in the authorized market. The association may write coverage above the limits specified in this subparagraph with or without facultative or other reinsurance coverage, as the association determines appropriate. d. The plan of operation must provide objective criteria and procedures, approved by the department, to be uniformly applied for all applicants in determining whether an individual risk is so hazardous as to be uninsurable. In making this determination and in establishing the criteria and procedures, the following shall be considered: (I) Whether the likelihood of a loss for the individual risk is substantially higher than for other risks of the same class; and (II) Whether the uncertainty associated with the individual risk is such that an appropriate premium cannot be determined. The acceptance or rejection of a risk by the association

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pursuant to such criteria and procedures must be construed as

the private placement of insurance, and the provisions of

chapter 120 do not apply.

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

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

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

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

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

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

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

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

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452 If the producing agent is unwilling or unable to accept
453 appointment, the new insurer shall pay the agent in accordance

with sub-sub-subparagraph (I).

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

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

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or incur other indebtedness, or have bonds issued on its behalf by a unit of local government pursuant to subparagraph (6)(q)2., in the absence of a hurricane or other weather-related event, upon a determination by the association subject to approval by the department that such action would enable it to efficiently meet the financial obligations of the association and that such financings are reasonably necessary to effectuate the requirements of this subsection. Any such entity may accumulate reserves and retain surpluses as of the end of any association year to provide for the payment of losses incurred by the association during that year or any future year. The association shall incorporate and continue the plan of operation and articles of agreement in effect on the effective date of chapter 76-96, Laws of Florida, to the extent that it is not inconsistent with chapter 76-96, and as subsequently modified consistent with chapter 76-96. The board of directors and officers currently serving shall continue to serve until their successors are duly qualified as provided under the plan. The assets and obligations of the plan in effect immediately prior the effective date of chapter 76-96 shall be construed to be the assets and obligations of the successor plan created herein. c. In recognition of s. 10, Art. I of the State Constitution, prohibiting the impairment of obligations of contracts, it is the intent of the Legislature that no action be taken whose purpose is to impair any bond indenture or financing

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

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7. On such coverage, an agent's remuneration shall be that amount of money payable to the agent by the terms of his or her contract with the company with which the business is placed.

However, no commission will be paid on that portion of the premium which is in excess of the standard premium of that company.

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

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9. Notwithstanding any other provision of law:

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

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

c. Each such pledge or sale of, lien upon, and security interest in, including the priority of such pledge, lien, or security interest, any such assessments, emergency assessments, market equalization or renewal surcharges, projected recoveries from the Florida Hurricane Catastrophe Fund, reinsurance recoverables, or other rights, revenues, or other assets which are collected, or levied and collected, after the commencement

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

documents" means any agreement, instrument, or other document now existing or hereafter created evidencing any bonds or other indebtedness of the association or pursuant to which any such bonds or other indebtedness has been or may be issued and pursuant to which any rights, revenues, or other assets of the association are pledged or sold to secure the repayment of such bonds or indebtedness, together with the payment of interest on such bonds or such indebtedness, or the payment of any other obligation of the association related to such bonds or indebtedness.

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

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

- f. There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member insurer or its agents or employees, agents or employees of the association, members of the board of directors of the association, or the department or its representatives, for any action taken by them in the performance of their duties or responsibilities under this subsection. Such immunity does not apply to actions for breach of any contract or agreement pertaining to insurance, or any willful tort.
- (c) The provisions of paragraph (b) are applicable only with respect to:
- 1. Those areas that were eligible for coverage under this subsection on April 9, 1993; or
- 2. Any county or area as to which the department, after public hearing, finds that the following criteria exist:
- a. Due to the lack of windstorm insurance coverage in the county or area so affected, economic growth and development is being deterred or otherwise stifled in such county or area, mortgages are in default, and financial institutions are unable to make loans;

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b. The county or area so affected is enforcing the structural requirements of the Florida Building Code, as defined in s. 553.73, for new construction and has included adequate minimum floor elevation requirements for structures in areas subject to inundation; and

c. Extending windstorm insurance coverage to such county or area is consistent with and will implement and further the policies and objectives set forth in applicable state laws, rules, and regulations governing coastal management, coastal construction, comprehensive planning, beach and shore preservation, barrier island preservation, coastal zone protection, and the Coastal Zone Protection Act of 1985.

The department shall consider reports of the Florida Building Commission when evaluating building code enforcement. Any time after the department has determined that the criteria referred to in this subparagraph do not exist with respect to any county or area of the state, it may, after a subsequent public hearing, declare that such county or area is no longer eligible for windstorm coverage through the plan.

(d) For the purpose of evaluating whether the criteria of paragraph (c) are met, such criteria shall be applied as the situation would exist if policies had not been written by the Florida Residential Property and Casualty Joint Underwriting Association and property insurance for such policyholders was

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not available.

- (e)1. Notwithstanding the provisions of subparagraph (c)2. or paragraph (d), eligibility shall not be extended to any area that was not eligible on March 1, 1997, except that the department may act with respect to any petition on which a hearing was held prior to May 9, 1997.
- 2. Notwithstanding the provisions of subparagraph 1., the following area is eligible for coverage under this subsection effective July 1, 2002: the area within Port Canaveral which is bordered on the south by the City of Cape Canaveral, bordered on the west by the Banana River, and bordered on the north by United States Government property.
- (f) As used in this subsection, the term "department" means the former Department of Insurance.
- (4) (5) PROPERTY AND CASUALTY INSURANCE RISK APPORTIONMENT.—The commission shall adopt by rule a joint underwriting plan to equitably apportion among insurers authorized in this state to write property insurance as defined in s. 624.604 or casualty insurance as defined in s. 624.605, the underwriting of one or more classes of property insurance or casualty insurance, except for the types of insurance that are included within property insurance or casualty insurance for which an equitable apportionment plan, assigned risk plan, or joint underwriting plan is authorized under s. 627.311 or subsection (1), subsection (2), subsection (3), or this

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subsection (4), or subsection (5) and except for risks eligible for flood insurance written through the federal flood insurance program to persons with risks eligible under subparagraph (a)1. and who are in good faith entitled to, but are unable to, obtain such property or casualty insurance coverage, including excess coverage, through the voluntary market. For purposes of this subsection, an adequate level of coverage means that coverage which is required by state law or by responsible or prudent business practices. The Joint Underwriting Association shall not be required to provide coverage for any type of risk for which there are no insurers providing similar coverage in this state. The office may designate one or more participating insurers who agree to provide policyholder and claims service, including the issuance of policies, on behalf of the participating insurers.

(a) The plan shall provide:

- 1. A means of establishing eligibility of a risk for obtaining insurance through the plan, which provides that:
- a. A risk shall be eligible for such property insurance or casualty insurance as is required by Florida law if the insurance is unavailable in the voluntary market, including the market assistance program and the surplus lines market.
- b. A commercial risk not eligible under sub-subparagrapha. shall be eligible for property or casualty insurance if:
- (I) The insurance is unavailable in the voluntary market, including the market assistance plan and the surplus lines

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676 market;

- (II) Failure to secure the insurance would substantially impair the ability of the entity to conduct its affairs; and
- (III) The risk is not determined by the Risk Underwriting Committee to be uninsurable.
- c. In the event the Federal Government terminates the Federal Crime Insurance Program established under 44 C.F.R. ss. 80-83, Florida commercial and residential risks previously insured under the federal program shall be eligible under the plan.
- d.(I) In the event a risk is eligible under this paragraph and in the event the market assistance plan receives a minimum of 100 applications for coverage within a 3-month period, or 200 applications for coverage within a 1-year period or less, for a given class of risk contained in the classification system defined in the plan of operation of the Joint Underwriting Association, and unless the market assistance plan provides a quotation for at least 80 percent of such applicants, such classification shall immediately be eligible for coverage in the Joint Underwriting Association.
- (II) Any market assistance plan application which is rejected because an individual risk is so hazardous as to be practically uninsurable, considering whether the likelihood of a loss for such a risk is substantially higher than for other risks of the same class due to individual risk characteristics,

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prior loss experience, unwillingness to cooperate with a prior insurer, physical characteristics and physical location shall not be included in the minimum percentage calculation provided above. In the event that there is any legal or administrative challenge to a determination by the office that the conditions of this subparagraph have been met for eligibility for coverage in the Joint Underwriting Association for a given classification, any eligible risk may obtain coverage during the pendency of any such challenge.

- e. In order to qualify as a quotation for the purpose of meeting the minimum percentage calculation in this subparagraph, the quoted premium must meet the following criteria:
- (I) In the case of an admitted carrier, the quoted premium must not exceed the premium available for a given classification currently in use by the Joint Underwriting Association or the premium developed by using the rates and rating plans on file with the office by the quoting insurer, whichever is greater.
- (II) In the case of an authorized surplus lines insurer, the quoted premium must not exceed the premium available for a given classification currently in use by the Joint Underwriting Association by more than 25 percent, after consideration of any individual risk surcharge or credit.
- f. Any agent who falsely certifies the unavailability of coverage as provided by sub-subparagraphs a. and b., is subject to the penalties provided in s. 626.611.

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2. A means for the equitable apportionment of profits or losses and expenses among participating insurers.

- 3. Rules for the classification of risks and rates which reflect the past and prospective loss experience.
- 4. A rating plan which reasonably reflects the prior claims experience of the insureds. Such rating plan shall include at least two levels of rates for risks that have favorable loss experience and risks that have unfavorable loss experience, as established by the plan.
- 5. Reasonable limits to available amounts of insurance. Such limits may not be less than the amounts of insurance required of eligible risks by Florida law.
- 6. Risk management requirements for insurance where such requirements are reasonable and are expected to reduce losses.
- 7. Deductibles as may be necessary to meet the needs of insureds.
- 8. Policy forms which are consistent with the forms in use by the majority of the insurers providing coverage in the voluntary market for the coverage requested by the applicant.
- 9. A means to remove risks from the plan once such risks no longer meet the eligibility requirements of this paragraph. For this purpose, the plan shall include the following requirements: At each 6-month interval after the activation of any class of insureds, the board of governors or its designated committee shall review the number of applications to the market

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assistance plan for that class. If, based on these latest numbers, at least 90 percent of such applications have been provided a quotation, the Joint Underwriting Association shall cease underwriting new applications for such class within 30 days, and notification of this decision shall be sent to the office, the major agents' associations, and the board of directors of the market assistance plan. A quotation for the purpose of this subparagraph shall meet the same criteria for a quotation as provided in sub-subparagraph 1.e. All policies which were previously written for that class shall continue in force until their normal expiration date, at which time, subject to the required timely notification of nonrenewal by the Joint Underwriting Association, the insured may then elect to reapply to the Joint Underwriting Association according to the requirements of eligibility. If, upon reapplication, those previously insured Joint Underwriting Association risks meet the eligibility requirements, the Joint Underwriting Association shall provide the coverage requested.

- 10. A means for providing credits to insurers against any deficit assessment levied pursuant to paragraph (c), for risks voluntarily written through the market assistance plan by such insurers.
- 11. That the Joint Underwriting Association shall operate subject to the supervision and approval of a board of governors consisting of 13 individuals appointed by the Chief Financial

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Officer, and shall have an executive or underwriting committee. At least four of the members shall be representatives of insurance trade associations as follows: one member from the American Insurance Association, one member from the Alliance of American Insurers, one member from the National Association of Independent Insurers, and one member from an unaffiliated insurer writing coverage on a national basis. Two representatives shall be from two of the statewide agents' associations. Each board member shall be appointed to serve for 2-year terms beginning on a date designated by the plan and shall serve at the pleasure of the Chief Financial Officer.

Members may be reappointed for subsequent terms.

(b) Rates used by the Joint Underwriting Association shall be actuarially sound. To the extent applicable, the rate standards set forth in s. 627.062 shall be considered by the office in establishing rates to be used by the joint underwriting plan. The initial rate level shall be determined using the rates, rules, rating plans, and classifications contained in the most current Insurance Services Office (ISO) filing with the office or the filing of other licensed rating organizations with an additional increment of 25 percent of premium. For any type of coverage or classification which lends itself to manual rating for which the Insurance Services Office or another licensed rating organization does not file or publish a rate, the Joint Underwriting Association shall file and use an

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initial rate based on the average current market rate. The initial rate level for the rate plan shall also be subject to an experience and schedule rating plan which may produce a maximum of 25 percent debits or credits. For any risk which does not lend itself to manual rating and for which no rate has been promulgated under the rate plan, the board shall develop and file with the office, subject to its approval, appropriate criteria and factors for rating the individual risk. Such criteria and factors shall include, but not be limited to, loss rating plans, composite rating plans, and unique and unusual risk rating plans. The initial rates required under this paragraph shall be adjusted in conformity with future filings by the Insurance Services Office with the office and shall remain in effect until such time as the Joint Underwriting Association has sufficient data as to independently justify an actuarially sound change in such rates.

- (c)1. In the event an underwriting deficit exists for any policy year the plan is in effect, any surplus which has accrued from previous years and is not projected within reasonable actuarial certainty to be needed for payment for claims in the year the surplus arose shall be used to offset the deficit to the extent available.
- 2. As to any remaining deficit, the board of governors of the Joint Underwriting Association shall levy and collect an assessment in an amount sufficient to offset such deficit. Such

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assessment shall be levied against the insurers participating in the plan during the year giving rise to the assessment. Any assessments against insurers for the lines of property and casualty insurance issued to commercial risks shall be recovered from the participating insurers in the proportion that the net direct premium of each insurer for commercial risks written during the preceding calendar year bears to the aggregate net direct premium written for commercial risks by all members of the plan for the lines of insurance included in the plan. Any assessments against insurers for the lines of property and casualty insurance issued to personal risks eligible under subsubparagraph (a) 1.a. or sub-subparagraph (a) 1.c. shall be recovered from the participating insurers in the proportion that the net direct premium of each insurer for personal risks written during the preceding calendar year bears to the aggregate net direct premium written for personal risks by all members of the plan for the lines of insurance included in the plan.

3. The board shall take all reasonable and prudent steps necessary to collect the amount of assessment due from each participating insurer and policyholder, including, if prudent, filing suit to collect such assessment. If the board is unable to collect an assessment from any insurer, the uncollected assessments shall be levied as an additional assessment against the participating insurers and any participating insurer

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required to pay an additional assessment as a result of such failure to pay shall have a cause of action against such nonpaying insurer.

- 4. Any funds or entitlements that the state may be eligible to receive by virtue of the Federal Government's termination of the Federal Crime Insurance Program referenced in sub-subparagraph (a)1.c. may be used under the plan to offset any subsequent underwriting deficits that may occur from risks previously insured with the Federal Crime Insurance Program.
- 5. Assessments shall be included as an appropriate factor in the making of rates as provided in s. 627.3512.
- 6.a. The Legislature finds that the potential for unlimited assessments under this paragraph may induce insurers to attempt to reduce their writings in the voluntary market, and that such actions would worsen the availability problems that the association was created to remedy. It is the intent of the Legislature that insurers remain fully responsible for covering any deficits of the association; however, it is also the intent of the Legislature to provide a means by which assessment liabilities may be amortized over a period of years.
- b. The total amount of deficit assessments under this paragraph with respect to any year may not exceed 10 percent of the statewide total gross written premium for all insurers for the coverages referred to in the introductory language of this subsection for the prior year, except that if the deficit with

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respect to any plan year exceeds such amount and bonds are issued under sub-subparagraph c. to defray the deficit, the total amount of assessments with respect to such deficit may not in any year exceed 10 percent of the deficit, or such lesser percentage as is sufficient to retire the bonds as determined by the board, and shall continue annually until the bonds are retired.

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The governing body of any unit of local government, any residents or businesses of which are insured by the association, may issue bonds as defined in s. 125.013 or s. 166.101 from time to time to fund an assistance program, in conjunction with the association, for the purpose of defraying deficits of the association. Revenue bonds may not be issued until validated pursuant to chapter 75, unless a state of emergency is declared by executive order or proclamation of the Governor pursuant to s. 252.36 making such findings as are necessary to determine that it is in the best interests of, and necessary for, the protection of the public health, safety, and general welfare of residents of this state and the protection and preservation of the economic stability of insurers operating in this state, and declaring it an essential public purpose to permit certain municipalities or counties to issue such bonds as will provide relief to claimants and policyholders of the joint underwriting association and insurers responsible for apportionment of association losses. The unit of local government shall enter

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into such contracts with the association as are necessary to carry out this paragraph. Any bonds issued under this subsubparagraph shall be payable from and secured by moneys received by the association from assessments under this paragraph, and assigned and pledged to or on behalf of the unit of local government for the benefit of the holders of such bonds. The funds, credit, property, and taxing power of the state or of the unit of local government shall not be pledged for the payment of such bonds. If any of the bonds remain unsold 60 days after issuance, the office shall require all insurers subject to assessment to purchase the bonds, which shall be treated as admitted assets; each insurer shall be required to purchase that percentage of the unsold portion of the bond issue that equals the insurer's relative share of assessment liability under this subsection. An insurer shall not be required to purchase the bonds to the extent that the office determines that the purchase would endanger or impair the solvency of the insurer.

7. The plan shall provide for the deferment, in whole or in part, of the assessment of an insurer if the office finds that payment of the assessment would endanger or impair the solvency of the insurer. In the event an assessment against an insurer is deferred in whole or in part, the amount by which such assessment is deferred may be assessed against the other member insurers in a manner consistent with the basis for

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assessments set forth in subparagraph 2.

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- (d) Upon adoption of the plan, all insurers authorized in this state to underwrite property or casualty insurance shall participate in the plan.
- (e) A Risk Underwriting Committee of the Joint Underwriting Association composed of three members experienced in evaluating insurance risks is created to review risks rejected by the voluntary market for which application is made for insurance through the joint underwriting plan. The committee shall consist of a representative of the market assistance plan created under s. 627.3515, a member selected by the insurers participating in the Joint Underwriting Association, and a member named by the Chief Financial Officer. The Risk Underwriting Committee shall appoint such advisory committees as are provided for in the plan and are necessary to conduct its functions. The salaries and expenses of the members of the Risk Underwriting Committee and its advisory committees shall be paid by the joint underwriting plan. The plan approved by the office shall establish criteria and procedures for use by the Risk Underwriting Committee for determining whether an individual risk is so hazardous as to be uninsurable. In making this determination and in establishing the criteria and procedures, the following shall be considered:
- 1. Whether the likelihood of a loss for the individual risk is substantially higher than for other risks of the same

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951 class; and

> 2. Whether the uncertainty associated with the individual risk is such that an appropriate premium cannot be determined.

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The acceptance or rejection of a risk by the underwriting committee shall be construed as the private placement of

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- insurance, and the provisions of chapter 120 shall not apply.
- There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member insurer or its agents or employees, the Florida Property and Casualty Joint Underwriting Association or its agents or employees, members of the board of governors, the Chief Financial Officer, or the office or its representatives for any action taken by them in the performance of their duties under this subsection. Such immunity does not apply to actions for breach of any contract or agreement pertaining to insurance, or any other willful tort.
  - (5) (6) CITIZENS PROPERTY INSURANCE CORPORATION. -
- The public purpose of this subsection is to ensure that there is an orderly market for property insurance for residents and businesses of this state.
- The Legislature finds that private insurers are unwilling or unable to provide affordable property insurance coverage in this state to the extent sought and needed. The absence of affordable property insurance threatens the public

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health, safety, and welfare and likewise threatens the economic health of the state. The state therefore has a compelling public interest and a public purpose to assist in assuring that property in the state is insured and that it is insured at affordable rates so as to facilitate the remediation, reconstruction, and replacement of damaged or destroyed property in order to reduce or avoid the negative effects otherwise resulting to the public health, safety, and welfare, to the economy of the state, and to the revenues of the state and local governments which are needed to provide for the public welfare. It is necessary, therefore, to provide affordable property insurance to applicants who are in good faith entitled to procure insurance through the voluntary market but are unable to do so. The Legislature intends, therefore, that affordable property insurance be provided and that it continue to be provided, as long as necessary, through Citizens Property Insurance Corporation, a government entity that is an integral part of the state, and that is not a private insurance company. To that end, the corporation shall strive to increase the availability of affordable property insurance in this state, while achieving efficiencies and economies, and while providing service to policyholders, applicants, and agents which is no less than the quality generally provided in the voluntary market, for the achievement of the foregoing public purposes. Because it is essential for this government entity to have the

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maximum financial resources to pay claims following a catastrophic hurricane, it is the intent of the Legislature that the corporation continue to be an integral part of the state and that the income of the corporation be exempt from federal income taxation and that interest on the debt obligations issued by the corporation be exempt from federal income taxation.

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

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1026 building, and similar policies.

- 3. <u>Effective January 1, 2026,</u> with respect to coverage for personal lines residential structures:
- a. Effective January 1, 2017, A structure that has a dwelling replacement cost of \$700,000 or more, or a single condominium unit that has a combined dwelling and contents replacement cost of \$700,000 or more, is not eligible for coverage by the corporation, except as otherwise provided in sub-subparagraph c.
- b. The requirements of sub-subparagraph a. do not apply in counties where the office determines there is not a reasonable degree of competition. In such counties a personal lines residential structure that has a dwelling replacement cost of less than \$1 million, or a single condominium unit that has a combined dwelling and contents replacement cost of less than \$1 million, is eligible for coverage by the corporation.
- c. The corporation shall make windstorm coverage available to any homeowner, including a condominium association, for any residential structure, including a mobile home that is used as a dwelling and that is tied down in compliance with mobile home tie-down requirements prescribed by the Department of Highway Safety and Motor Vehicles pursuant to s. 320.8325. The windstorm coverage must include coverage of the contents of the structure and may not depend on which property and casualty insurer is providing the property and casualty coverage for the structure

which is not windstorm coverage. This sub-subparagraph does not prohibit an insurer from issuing or renewing a policy that provides hurricane or windstorm coverage for a residential structure.

- an agent that transacts property and casualty insurance. If the homeowner elects windstorm coverage by the corporation in addition to property and casualty coverage by an insurer other than the corporation, the windstorm portion of the quote shall be underwritten by the corporation and administered by the insurer chosen by the homeowner. If the homeowner elects only windstorm coverage, the corporation shall administer the policy. The administrator shall handle windstorm claims, and, if the administrator is an insurer that is not the corporation, the administrator shall handle windstorm as well as nonwindstorm claims. Underwriting rules under this code apply to windstorm coverage by the corporation and may preclude the offering of windstorm coverage under limited circumstances prescribed by this code.
- (II) The windstorm premiums, adjusted by a standard formula prescribed by the corporation for administrative fees for the insurance agent and, if applicable, for the insurer other than the corporation, shall be passed on to the corporation.
  - (III) The corporation shall pool the windstorm premiums

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and shall use the pool as the primary source for settlement of windstorm claims submitted by the policyholder through the policyholder's administrator. Settlement payments shall be processed and distributed through the corporation or, if applicable, the homeowner's property and casualty insurer. If the corporation is not the administrator, the corporation shall pay claims administrative fees to the homeowner's property and casualty insurer.

- 4. It is the intent of the Legislature that policyholders, applicants, and agents of the corporation receive service and treatment of the highest possible level but never less than that generally provided in the voluntary market. It is also intended that the corporation be held to service standards no less than those applied to insurers in the voluntary market by the office with respect to responsiveness, timeliness, customer courtesy, and overall dealings with policyholders, applicants, or agents of the corporation.
- 5.a. Effective July 1, 2025 January 1, 2009, a personal lines residential structure that is located in the "wind-borne debris region," as defined in s. 1609.2, International Building Code (2006), and that has an insured value on the structure of \$750,000 or more is not eligible for coverage by the corporation, except for windstorm coverage, unless the structure has opening protections as required under the Florida Building Code for a newly constructed residential structure in that area.

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A residential structure is deemed to comply with this subsubparagraph if it has shutters or opening protections on all openings and if such opening protections complied with the Florida Building Code at the time they were installed.

- b. Any major structure, as defined in s. 161.54(6)(a), that is newly constructed, or rebuilt, repaired, restored, or remodeled to increase the total square footage of finished area by more than 25 percent, pursuant to a permit applied for after July 1, 2015, is not eligible for coverage by the corporation, except for windstorm coverage, if the structure is seaward of the coastal construction control line established pursuant to s. 161.053 or is within the Coastal Barrier Resources System as designated by 16 U.S.C. ss. 3501-3510.
- 6. Effective July 1, 2025, the corporation shall make windstorm coverage available to all commercial lines residential structures, including condominiums, regardless of whether the units are rented. The windstorm coverage must include coverage of the contents of the structure and may not depend on which property and casualty insurer is providing the property and casualty coverage for the structure which is not windstorm coverage. This subparagraph does not prohibit an insurer from issuing or renewing a windstorm or hurricane coverage policy for a residential structure. This subparagraph does not prohibit an insurer from issuing or renewing a policy that provides hurricane or windstorm coverage for a commercial lines

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

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- (b) 1. All insurers authorized to write one or more subject lines of business in this state are subject to assessment by the corporation and, for the purposes of this subsection, are referred to collectively as "assessable insurers." Insurers writing one or more subject lines of business in this state pursuant to part VIII of chapter 626 are not assessable insurers; however, insureds who procure one or more subject lines of business in this state pursuant to part VIII of chapter 626 are subject to assessment by the corporation and are referred to collectively as "assessable insureds." An insurer's assessment liability begins on the first day of the calendar year following the year in which the insurer was issued a certificate of authority to transact insurance for subject lines of business in this state and terminates 1 year after the end of the first calendar year during which the insurer no longer holds a certificate of authority to transact insurance for subject lines of business in this state.
- 2. All revenues, assets, liabilities, losses, and expenses of the corporation shall be maintained in the Citizens account.

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1151 The Citizens account may provide:

- a. Personal residential policies that provide comprehensive, multiperil coverage on risks that are not located in areas eligible for coverage by the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002, and for policies that do not provide coverage for the peril of wind on risks that are located in such areas;
- b. Commercial residential and commercial nonresidential policies that provide coverage for basic property perils on risks that are not located in areas eligible for coverage by the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002, and for policies that do not provide coverage for the peril of wind on risks that are located in such areas; and
- c. Personal residential policies and commercial residential and commercial nonresidential property policies that provide coverage for the peril of wind on risks that are located in areas eligible for coverage by the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002. The corporation may offer policies that provide multiperil coverage and shall offer policies that provide coverage only for the peril of wind for risks located in areas eligible for coverage by the Florida Windstorm Underwriting Association, as those areas were defined on January 1, 2002. The corporation may not offer new commercial residential policies

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providing multiperil coverage but shall continue to offer commercial residential wind-only policies, and may offer commercial residential policies excluding wind. However, the corporation may continue to renew a commercial residential multiperil policy on a building that was insured by the corporation on July 1, 2025 June 30, 2014, under a multiperil policy. In issuing multiperil coverage under this subsubparagraph, the corporation may use its approved policy forms and rates for risks located in areas not eligible for coverage by the Florida Windstorm Underwriting Association, as those areas were defined on January 1, 2002, and for policies that do not provide coverage for the peril of wind on risks that are located in such areas. An applicant or insured who is eligible to purchase a multiperil policy from the corporation may purchase a multiperil policy from an authorized insurer without prejudice to the applicant's or insured's eligibility to prospectively purchase a policy that provides coverage only for the peril of wind from the corporation. An applicant or insured who is eligible for a corporation policy that provides coverage only for the peril of wind may elect to purchase or retain policy and also purchase or retain coverage excluding wind from an authorized insurer without prejudice to the applicant's or insured's eligibility to prospectively purchase a policy that provides multiperil coverage from the corporation. The following policies, which provide coverage only for the peril of wind,

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1201 must also include quota share primary insurance under subparagraph (c) 2.: 1202 1203 (I) Personal residential policies and commercial 1204 residential and commercial nonresidential property policies that 1205 provide coverage for the peril of wind on risks that are located 1206 in areas eligible for coverage by the Florida Windstorm 1207 Underwriting Association, as those areas were defined on January 1, 2002; 1208 1209 (II) Policies that provide multiperil coverage, if offered 1210 by the corporation, and policies that provide coverage only for 1211 the peril of wind for risks located in areas eligible for 1212 coverage by the Florida Windstorm Underwriting Association, as those areas were defined on January 1, 2002; 1213 1214 (III) Commercial residential wind-only policies; 1215 (IV) Commercial residential policies excluding wind, if 1216 offered by the corporation; and 1217 (V) Commercial residential multiperil policies on a 1218 building that was insured by the corporation on June 30, 2014. 1219 1220 The area eligible for coverage with the corporation under this 1221 sub-subparagraph includes the area within Port Canaveral, which 1222 is bordered on the south by the City of Cape Canaveral, bordered 1223 on the west by the Banana River, and bordered on the north by 1224 Federal Government property. 1225 With respect to a deficit in the Citizens account:

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

- (I) The surcharge shall be levied as a uniform percentage of the premium for the policy of up to 15 percent of such premium, which funds shall be used to offset the deficit.
- (II) The surcharge is payable upon cancellation or termination of the policy, upon renewal of the policy, or upon issuance of a new policy by the corporation within the first 12 months after the date of the levy or the period of time necessary to fully collect the surcharge amount.
- (III) The surcharge is not considered premium and is not subject to commissions, fees, or premium taxes. However, failure to pay the surcharge shall be treated as failure to pay premium.
- b. After accounting for the Citizens policyholder surcharge imposed under sub-subparagraph a., the remaining projected deficits in the Citizens account in a particular calendar year shall be recovered through emergency assessments under sub-subparagraph c.
- c. Upon a determination by the board of governors that a projected deficit in the Citizens account exceeds the amount that is expected to be recovered through surcharges, the board, after verification by the office, shall levy emergency assessments for as many years as necessary to cover the

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deficits, to be collected by assessable insurers and the corporation and collected from assessable insureds upon issuance or renewal of policies for subject lines of business, excluding National Flood Insurance Program policies. The amount collected in a particular year must be a uniform percentage of that year's direct written premium for subject lines of business and the Citizens account, excluding National Flood Insurance Program policy premiums, as annually determined by the board and verified by the office. The office shall verify the arithmetic calculations involved in the board's determination within 30 days after receipt of the information on which the determination was based. The office shall notify assessable insurers and the Florida Surplus Lines Service Office of the date on which assessable insurers shall begin to collect and assessable insureds shall begin to pay such assessment. The date must be at least 90 days after the date the corporation levies emergency assessments pursuant to this sub-subparagraph. Notwithstanding any other law, the corporation and each assessable insurer that writes subject lines of business shall collect emergency assessments from its policyholders without such obligation being affected by any credit, limitation, exemption, or deferment. Emergency assessments levied by the corporation on assessable insureds shall be collected by the surplus lines agent at the time the surplus lines agent collects the surplus lines tax required by s. 626.932 and paid to the Florida Surplus Lines

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Service Office at the time the surplus lines agent pays the surplus lines tax to that office. The emergency assessments collected shall be transferred directly to the corporation on a periodic basis as determined by the corporation and held by the corporation solely in the Citizens account. The aggregate amount of emergency assessments levied for the Citizens account in any calendar year may be less than but may not exceed the greater of 10 percent of the amount needed to cover the deficit, plus interest, fees, commissions, required reserves, and other costs associated with financing the original deficit, or 10 percent of the aggregate statewide direct written premium for subject lines of business and the Citizens account of the corporation for the prior year, plus interest, fees, commissions, required reserves, and other costs associated with financing the deficit.

d. The corporation may pledge the proceeds of assessments, projected recoveries from the Florida Hurricane Catastrophe Fund, other insurance and reinsurance recoverables, policyholder surcharges and other surcharges, and other funds available to the corporation as the source of revenue for and to secure bonds issued under paragraph (q), bonds or other indebtedness issued under subparagraph (c)2. (c)3., or lines of credit or other financing mechanisms issued or created under this subsection, or to retire any other debt incurred as a result of deficits or events giving rise to deficits, or in any other way that the board determines will efficiently recover such deficits. The

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

e. As used in this subsection and for purposes of any deficit incurred on or after January 25, 2007, the term "subject lines of business" means insurance written by assessable insurers or procured by assessable insureds for all property and casualty lines of business in this state, but not including workers' compensation or medical malpractice. As used in this sub-subparagraph, the term "property and casualty lines of business" includes all lines of business identified on Form 2, Exhibit of Premiums and Losses, in the annual statement required of authorized insurers under s. 624.424 and any rule adopted

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under this section, except for those lines identified as accident and health insurance and except for policies written under the National Flood Insurance Program or the Federal Crop Insurance Program. For purposes of this sub-subparagraph, the term "workers' compensation" includes both workers' compensation insurance and excess workers' compensation insurance.

- f. The Florida Surplus Lines Service Office shall annually determine the aggregate statewide written premium in subject lines of business procured by assessable insureds and report that information to the corporation in a form and at a time the corporation specifies to ensure that the corporation can meet the requirements of this subsection and the corporation's financing obligations.
- g. The Florida Surplus Lines Service Office shall verify the proper application by surplus lines agents of assessment percentages for emergency assessments levied under this subparagraph on assessable insureds and assist the corporation in ensuring the accurate, timely collection and payment of assessments by surplus lines agents as required by the corporation.
- h. If the amount of any assessments or surcharges collected from corporation policyholders, assessable insurers or their policyholders, or assessable insureds exceeds the amount of the deficits, such excess amounts shall be remitted to and retained by the corporation in a reserve to be used by the

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

(c) The corporation's plan of operation:

- 1. Must provide for adoption of residential property and casualty insurance policy forms and commercial residential and nonresidential property insurance forms, which must be approved by the office before use. The corporation shall adopt the following policy forms:
- a. Standard personal lines policy forms that are comprehensive multiperil policies providing full coverage of a residential property equivalent to the coverage provided in the private insurance market under an HO-3, HO-4, or HO-6 policy.
- b. Basic personal lines policy forms that are policies similar to an HO-8 policy or a dwelling fire policy that provide coverage meeting the requirements of the secondary mortgage market, but which is more limited than the coverage under a standard policy.
- c. Commercial lines residential and nonresidential policy forms that are generally similar to the basic perils of full coverage obtainable for commercial residential structures and commercial nonresidential structures in the admitted voluntary market.
  - d. Personal lines and commercial lines residential

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property insurance forms that cover the peril of wind only. The forms are applicable only to residential properties located in areas eligible for coverage by the Florida Windstorm

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

- e. Commercial lines nonresidential property insurance forms that cover the peril of wind only. The forms are applicable only to nonresidential properties located in areas eligible for coverage by the Florida Windstorm Underwriting Association, as those areas were defined on January 1, 2002.
- f. The corporation may adopt variations of the policy forms listed in sub-subparagraphs a.-e. which contain more restrictive coverage.
- g. The corporation shall offer a basic personal lines policy similar to an HO-8 policy with dwelling repair based on common construction materials and methods.
- 2. Must provide that the corporation adopt a program in which the corporation and authorized insurers enter into quota share primary insurance agreements for hurricane coverage, as defined in s. 627.4025(2)(a), for eligible risks, and adopt property insurance forms for eligible risks which cover the peril of wind only.
  - a. As used in this subsection, the term:
- 1399 (I) "Approved surplus lines insurer" means an eligible
  1400 surplus lines insurer that:

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L401	(A) Has a financial strength rating of "A-" or higher from
L402	A.M. Best Company;
L403	(B) Has a personal lines residential risk program that is
L404	managed by a Florida resident surplus lines broker;
L405	(C) Applies to the office to participate in the take-out
L406	process to offer coverage to applicants for new coverage from
L407	the corporation or current policyholders of the corporation
L408	through a take-out plan approved by the office;
L409	(D) Does not, as part of any take-out plan approved by the
L410	office, offer coverage on any personal lines residential risk
L411	that is a primary residence or has a homestead exemption under
L412	chapter 196;
L413	(E) Files rates for review as part of a take-out plan with
L414	the office. The office shall review whether the premium is more
L415	than 20 percent greater than the premium for comparable coverage
L416	from the corporation; and
L417	(F) Provides data to the office related to coverage and
L418	rates in a format promulgated by the commission.
L419	(II) "Eligible risks" means personal lines residential and
L420	commercial lines residential risks that meet the underwriting
L421	criteria of the corporation and are located in areas that were
L422	eligible for coverage by the Florida Windstorm Underwriting
L423	Association on January 1, 2002.
L424	(III) "Primary residence" means the dwelling that is the
L425	policyholder's primary home or is a rental property that is the

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primary home of the tenant, and which the policyholder or tenant occupies for more than 9 months of each year.

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(IV) "Quota share primary insurance" means an arrangement in which the primary hurricane coverage of an eligible risk provided in specified percentages by the corporation and an authorized insurer. The corporation and authorized insurer are each solely responsible for a specified percentage of hurricane coverage of an eligible risk as set forth in a quota share primary insurance agreement between the corporation and an authorized insurer and the insurance contract. The responsibility of the corporation or authorized insurer to pay its specified percentage of hurricane losses of an eligible risk, as set forth in the agreement, may not be altered by the inability of the other party to pay its specified percentage of losses. Eligible risks that are provided hurricane coverage through a quota share primary insurance arrangement must be provided policy forms that set forth the obligations of the corporation and authorized insurer under the arrangement, clearly specify the percentages of quota share primary insurance provided by the corporation and authorized insurer, and conspicuously and clearly state that the authorized insurer and the corporation may not be held responsible beyond their specified percentage of coverage of hurricane losses. b. The corporation may enter into quota share primary

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insurance agreements with authorized insurers at corporation

coverage levels of 90 percent and 50 percent.

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

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

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

f. For all eligible risks covered under quota share primary insurance agreements, the exposure and coverage levels for both the corporation and authorized insurers shall be reported by the corporation to the Florida Hurricane Catastrophe Fund. For all policies of eligible risks covered under such agreements, the corporation and the authorized insurer must

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maintain complete and accurate records for the purpose of exposure and loss reimbursement audits as required by fund rules. The corporation and the authorized insurer shall each maintain duplicate copies of policy declaration pages and supporting claims documents.

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

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

2.3. May provide that the corporation may employ or

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otherwise contract with individuals or other entities to provide administrative or professional services that may be appropriate to effectuate the plan. The corporation may borrow funds by issuing bonds or by incurring other indebtedness, and shall have other powers reasonably necessary to effectuate the requirements of this subsection, including, without limitation, the power to issue bonds and incur other indebtedness in order to refinance outstanding bonds or other indebtedness. The corporation may seek judicial validation of its bonds or other indebtedness under chapter 75. The corporation may issue bonds or incur other indebtedness, or have bonds issued on its behalf by a unit of local government pursuant to subparagraph (q) 2. in the absence of a hurricane or other weather-related event, upon a determination by the corporation, subject to approval by the office, that such action would enable it to efficiently meet the financial obligations of the corporation and that such financings are reasonably necessary to effectuate the requirements of this subsection. The corporation may take all actions needed to facilitate tax-free status for such bonds or indebtedness, including formation of trusts or other affiliated entities. The corporation may pledge assessments, projected recoveries from the Florida Hurricane Catastrophe Fund, other reinsurance recoverables, policyholder surcharges and other surcharges, and other funds available to the corporation as security for bonds or other indebtedness. In recognition of s.

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10, Art. I of the State Constitution, prohibiting the impairment of obligations of contracts, it is the intent of the Legislature that no action be taken whose purpose is to impair any bond indenture or financing agreement or any revenue source committed by contract to such bond or other indebtedness.

- 3.4. Must require that the corporation operate subject to the supervision and approval of a board of governors consisting of nine individuals who are residents of this state and who are from different geographical areas of the state, one of whom is appointed by the Governor and serves solely to advocate on behalf of the consumer. The appointment of a consumer representative by the Governor is deemed to be within the scope of the exemption provided in s. 112.313(7)(b) and is in addition to the appointments authorized under sub-subparagraph a.
- a. The Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives shall each appoint two members of the board. At least one of the two members appointed by each appointing officer must have demonstrated expertise in insurance and be deemed to be within the scope of the exemption provided in s. 112.313(7)(b). The Chief Financial Officer shall designate one of the appointees as chair. All board members serve at the pleasure of the appointing officer. All members of the board are subject to removal at will by the officers who appointed them. All board members, including the chair, must be appointed to

serve for 3-year terms beginning annually on a date designated by the plan. However, for the first term beginning on or after July 1, 2009, each appointing officer shall appoint one member of the board for a 2-year term and one member for a 3-year term. A board vacancy shall be filled for the unexpired term by the appointing officer. The Chief Financial Officer shall appoint a technical advisory group to provide information and advice to the board in connection with the board's duties under this subsection. The executive director and senior managers of the corporation shall be engaged by the board and serve at the pleasure of the board. Any executive director appointed on or after July 1, 2006, is subject to confirmation by the Senate. The executive director is responsible for employing other staff as the corporation may require, subject to review and concurrence by the board.

- b. The board shall create a Market Accountability Advisory Committee to assist the corporation in developing awareness of its rates and its customer and agent service levels in relationship to the voluntary market insurers writing similar coverage.
- (I) The members of the advisory committee consist of the following 11 persons, one of whom must be elected chair by the members of the committee: four representatives, one appointed by the Florida Association of Insurance Agents, one by the Florida Association of Insurance and Financial Advisors, one by the

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

- (II) The committee shall report to the corporation at each board meeting on insurance market issues which may include rates and rate competition with the voluntary market; service, including policy issuance, claims processing, and general responsiveness to policyholders, applicants, and agents; and matters relating to depopulation.
- $\underline{4.5.}$  Must provide a procedure for determining the eliqibility of a risk for coverage, as follows:
- a. Subject to s. 627.3517, with respect to personal lines residential risks that are primary residences, if the risk is offered coverage from an authorized insurer at the insurer's approved rate under a standard policy excluding including wind coverage or, if consistent with the insurer's underwriting rules as filed with the office, a basic policy excluding including

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wind coverage, for a new application to the corporation for coverage, the risk is not eligible for any policy issued by the corporation unless the premium for coverage from the authorized insurer is more than 20 percent greater than the premium for comparable coverage from the corporation. Whenever an offer of coverage for a personal lines residential risk that is a primary residence is received for a policyholder of the corporation at renewal from an authorized insurer, if the offer is equal to or less than the corporation's renewal premium for comparable coverage, the risk is not eligible for coverage with the corporation for policies that renew before April 1, 2023; for policies that renew on or after that date, the risk is not eligible for coverage with the corporation unless the premium for coverage from the authorized insurer is more than 20 percent greater than the corporation's renewal premium for comparable coverage. If the risk is not able to obtain such offer, the risk is eligible for a standard policy including wind coverage or a basic policy including wind coverage issued by the corporation; however, if the risk could not be insured under a standard policy including wind coverage regardless of market conditions, the risk is eligible for a basic policy including wind coverage unless rejected under subparagraph 8. The corporation shall determine the type of policy to be provided on the basis of objective standards specified in the underwriting manual and based on generally accepted underwriting practices. A

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policyholder removed from the corporation through an assumption agreement does not remain eligible for coverage from the corporation after the end of the policy term. However, any policy removed from the corporation through an assumption agreement remains on the corporation's policy forms through the end of the policy term. This sub-subparagraph applies only to risks that are primary residences.

- (I) If the risk accepts an offer of coverage through the market assistance plan or through a mechanism established by the corporation other than a plan established by s. 627.3518, before a policy is issued to the risk by the corporation or during the first 30 days of coverage by the corporation, and the producing agent who submitted the application to the plan or to the corporation is not currently appointed by the insurer, the insurer shall:
- (A) Pay to the producing agent of record of the policy for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the corporation; or
- (B) Offer to allow the producing agent of record of the policy to continue servicing the policy for at least 1 year and offer to pay the agent the greater of the insurer's or the corporation's usual and customary commission for the type of policy written.

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

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

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

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

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with  $\operatorname{sub-sub-sub-sub-subparagraph}$  (A).

b. Subject to s. 627.3517, with respect to personal lines residential risks that are not primary residences, if the risk is offered coverage from an authorized insurer at the insurer's approved rate or from an approved surplus lines insurer at the

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rate approved by the office as part of such surplus lines insurer's take-out plan for a new application to the corporation for coverage, the risk is not eligible for any policy issued by the corporation unless the premium for coverage from the authorized insurer or approved surplus lines insurer is more than 20 percent greater than the premium for comparable coverage from the corporation. Whenever an offer of coverage for a personal lines residential risk that is not a primary residence is received for a policyholder of the corporation at renewal from an authorized insurer at the insurer's approved rate or an approved surplus lines insurer at the rate approved by the office as part of such insurer's take-out plan, the risk is not eligible for coverage with the corporation unless the premium for coverage from the authorized insurer or approved surplus lines insurer is more than 20 percent greater than the corporation's renewal premium for comparable coverage for policies that renew on or after July 1, 2024. If the risk is not able to obtain such offer, the risk is eligible for a standard policy including wind coverage or a basic policy including wind coverage issued by the corporation. If the risk could not be insured under a standard policy including wind coverage regardless of market conditions, the risk is eligible for a basic policy including wind coverage unless rejected under subparagraph 7 8. The corporation shall determine the type of policy to be provided on the basis of objective standards

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specified in the underwriting manual and based on generally accepted underwriting practices. A policyholder removed from the corporation through an assumption agreement does not remain eligible for coverage from the corporation after the end of the policy term. However, any policy removed from the corporation through an assumption agreement remains on the corporation's policy forms through the end of the policy term.

- (I) If the risk accepts an offer of coverage through the market assistance plan or through a mechanism established by the corporation other than a plan established by s. 627.3518, before a policy is issued to the risk by the corporation or during the first 30 days of coverage by the corporation, and the producing agent who submitted the application to the plan or to the corporation is not currently appointed by the insurer, the insurer must:
- (A) Pay to the producing agent of record of the policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the corporation; or
- (B) Offer to allow the producing agent of record of the policy to continue servicing the policy for at least 1 year and offer to pay the agent the greater of the insurer's or the corporation's usual and customary commission for the type of policy written.

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

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

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

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

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with  $\operatorname{sub-sub-sub-sub-paragraph}$  (A).

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

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eligible for a policy issued by the corporation unless the premium for coverage from the authorized insurer is more than 20 percent greater than the premium for comparable coverage from the corporation. Whenever an offer of coverage for a commercial lines residential risk is received for a policyholder of the corporation at renewal from an authorized insurer, the risk is not eligible for coverage with the corporation unless the premium for coverage from the authorized insurer is more than 20 percent greater than the corporation's renewal premium for comparable coverage. If the risk is not able to obtain any such offer, the risk is eligible for a policy including wind coverage issued by the corporation. A policyholder removed from the corporation through an assumption agreement remains eligible for coverage from the corporation until the end of the policy term. However, any policy removed from the corporation through an assumption agreement remains on the corporation's policy forms through the end of the policy term.

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

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

- (B) Offer to allow the producing agent of record of the policy to continue servicing the policy for at least 1 year and offer to pay the agent the greater of the insurer's or the corporation's usual and customary commission for the type of policy written.
- If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with  $\operatorname{sub-sub-sub-sub-sub-paragraph}$  (A).
- (II) If the corporation enters into a contractual agreement for a take-out plan, the producing agent of record of the corporation policy is entitled to retain any unearned commission on the policy, and the insurer shall:
- (A) Pay to the producing agent of record, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the corporation; or
- (B) Offer to allow the producing agent of record to continue servicing the policy for at least 1 year and offer to

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

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

For purposes of determining comparable coverage under sub-subparagraphs a., b., and c., the comparison must be based on those forms and coverages that are reasonably comparable. The corporation may rely on a determination of comparable coverage and premium made by the producing agent who submits the application to the corporation, made in the agent's capacity as the corporation's agent. For purposes of comparing the premium for comparable coverage under sub-subparagraphs a., b., and c., premium includes any surcharge or assessment that is actually applied to such policy. A comparison may be made solely of the premium with respect to the main building or structure only on the following basis: the same Coverage A or other building limits; the same percentage hurricane deductible that applies on an annual basis or that applies to each hurricane for commercial residential property; the same percentage of ordinance and law coverage, if the same limit is offered by both the corporation and the authorized insurer or the approved surplus lines insurer; the same mitigation credits, to the extent the same types of credits are offered both by the corporation and the

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authorized insurer or the approved surplus lines insurer; the same method for loss payment, such as replacement cost or actual cash value, if the same method is offered both by the corporation and the authorized insurer in accordance with underwriting rules; and any other form or coverage that is reasonably comparable as determined by the board. If an application is submitted to the corporation for wind-only coverage on a risk that is located in an area eligible for coverage by the Florida Windstorm Underwriting Association, as that area was defined on January 1, 2002, the premium for the corporation's wind-only policy plus the premium for the ex-wind policy that is offered by an authorized insurer to the applicant must be compared to the premium for multiperil coverage offered by an authorized insurer, subject to the standards for comparison specified in this subparagraph. If the corporation or the applicant requests from the authorized insurer or the approved surplus lines insurer a breakdown of the premium of the offer by types of coverage so that a comparison may be made by the corporation or its agent and the authorized insurer or the approved surplus lines insurer refuses or is unable to provide such information, the corporation may treat the offer as not being an offer of coverage from an authorized insurer at the insurer's approved rate.

 $\underline{5.6.}$  Must include rules for classifications of risks and rates.

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6.7. Must provide that if premium and investment income for the Citizens account, which are attributable to a particular calendar year, are in excess of projected losses and expenses for the Citizens account attributable to that year, such excess shall be held in surplus in the Citizens account. Such surplus must be available to defray deficits in the Citizens account as to future years and used for that purpose before assessing assessable insurers and assessable insureds as to any calendar year.

- 7.8. Must provide objective criteria and procedures to be uniformly applied to all applicants in determining whether an individual risk is so hazardous as to be uninsurable. In making this determination and in establishing the criteria and procedures, the following must be considered:
- a. Whether the likelihood of a loss for the individual risk is substantially higher than for other risks of the same class; and
- b. Whether the uncertainty associated with the individual risk is such that an appropriate premium cannot be determined.

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

8.9. Must provide that the corporation make its best efforts to procure catastrophe reinsurance at reasonable rates,

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to cover its projected 100-year probable maximum loss as determined by the board of governors. If catastrophe reinsurance is not available at reasonable rates, the corporation need not purchase it, but the corporation shall include the costs of reinsurance to cover its projected 100-year probable maximum loss in its rate calculations even if it does not purchase catastrophe reinsurance.

- 9.10. Must provide in the policies issued by the corporation must provide that if the corporation or the market assistance plan obtains an offer from an authorized insurer to cover the risk at its approved rates, the risk is no longer eligible for renewal through the corporation, except for a hurricane or windstorm risk and except as otherwise provided in this subsection.
- 10.11. Must include in the corporation policies and applications must include a notice that the corporation policy could, under this section, be replaced with a policy issued by an authorized insurer which does not provide coverage identical to the coverage provided by the corporation. The notice must also specify that acceptance of corporation coverage creates a conclusive presumption that the applicant or policyholder is aware of this potential. This subparagraph does not apply to a hurricane or windstorm coverage.
- 11.12. May establish, subject to approval by the office, different eligibility requirements and operational procedures

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for any line or type of coverage for any specified county or area if the board determines that such changes are justified due to the voluntary market being sufficiently stable and competitive in such area or for such line or type of coverage and that consumers who, in good faith, are unable to obtain insurance through the voluntary market through ordinary methods continue to have access to coverage from the corporation. If coverage is sought in connection with a real property transfer, the requirements and procedures may not provide an effective date of coverage later than the date of the closing of the transfer as established by the transferor, the transferee, and, if applicable, the lender. This subparagraph does not apply to a hurricane or windstorm coverage.

- 12.13. Must provide that the corporation appoint as its licensed agents only those agents who throughout such appointments also hold an appointment as defined in s. 626.015 by at least three insurers who are authorized to write and are actually writing or renewing personal lines residential property coverage, commercial residential property coverage, or commercial nonresidential property coverage within the state.
- 13.14. Must provide a premium payment plan option to its policyholders which, at a minimum, allows for quarterly and semiannual payment of premiums. A monthly payment plan may, but is not required to, be offered.
  - 14.<del>15.</del> Must limit coverage on mobile homes or manufactured

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homes built before 1994 to actual cash value of the dwelling rather than replacement costs of the dwelling.

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- 15.16. Must provide coverage for manufactured or mobile home dwellings. Such coverage must also include the following attached structures:
- a. Screened enclosures that are aluminum framed or screened enclosures that are not covered by the same or substantially the same materials as those of the primary dwelling;
- b. Carports that are aluminum or carports that are not covered by the same or substantially the same materials as those of the primary dwelling; and
- c. Patios that have a roof covering that is constructed of materials that are not the same or substantially the same materials as those of the primary dwelling.

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

- 16.17. May provide such limits of coverage as the board determines, consistent with the requirements of this subsection.
- 17.18. May require commercial property to meet specified hurricane mitigation construction features as a condition of eligibility for coverage.
  - 18.19. Must provide that new or renewal policies issued by

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the corporation on or after January 1, 2012, which cover sinkhole loss do not include coverage for any loss to appurtenant structures, driveways, sidewalks, decks, or patios that are directly or indirectly caused by sinkhole activity. The corporation shall exclude such coverage using a notice of coverage change, which may be included with the policy renewal, and not by issuance of a notice of nonrenewal of the excluded coverage upon renewal of the current policy.

19.a.20.a. Must require that the agent obtain from an applicant for coverage from the corporation an acknowledgment signed by the applicant, which includes, at a minimum, the following statement:

# ACKNOWLEDGMENT OF POTENTIAL SURCHARGE AND ASSESSMENT LIABILITY:

- 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON, MY POLICY COULD BE SUBJECT TO SURCHARGES AND ASSESSMENTS, WHICH WILL BE DUE AND PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE POLICY, AND THAT THE SURCHARGES AND ASSESSMENTS COULD BE AS HIGH AS 25 PERCENT OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA LEGISLATURE.
- 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER SURCHARGE, WHICH COULD BE AS HIGH AS 15 PERCENT OF MY

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PREMIUM, BY OBTAINING NONWINDSTORM COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES ARE REGULATED AND APPROVED BY THE STATE.

- 3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
  ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
  INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY
  THE FLORIDA LEGISLATURE.
- 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE STATE OF FLORIDA.
- b. The corporation shall maintain, in electronic format or otherwise, a copy of the applicant's signed acknowledgment and provide a copy of the statement to the policyholder as part of the first renewal after the effective date of sub-subparagraph a.
- c. The signed acknowledgment form creates a conclusive presumption that the policyholder understood and accepted his or her potential surcharge and assessment liability as a policyholder of the corporation.
- 20.21. Must provide that the income of the corporation may not inure to the benefit of any private person.
  - (o) If coverage in the Citizens account is deactivated

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pursuant to paragraph (p), coverage through the corporation shall be reactivated by order of the office only under one of the following circumstances:

- 1. If the market assistance plan receives a minimum of 100 applications for coverage within a 3-month period, or 200 applications for coverage within a 1-year period or less for residential coverage, unless the market assistance plan provides a quotation from authorized carriers at their approved rates for at least 90 percent of such applicants. Any market assistance plan application that is rejected because an individual risk is so hazardous as to be uninsurable using the criteria specified in subparagraph (c)7. (e)8. may not be included in the minimum percentage calculation provided herein. In the event that there is a legal or administrative challenge to a determination by the office that the conditions of this subparagraph have been met for eligibility for coverage in the corporation, any eligible risk may obtain coverage during the pendency of such challenge.
- 2. In response to a state of emergency declared by the Governor under s. 252.36, the office may activate coverage by order for the period of the emergency upon a finding by the office that the emergency significantly affects the availability of residential property insurance.
- (v)1. Effective July 1, 2002, policies of the Residential Property and Casualty Joint Underwriting Association become policies of the corporation. All obligations, rights, assets and

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liabilities of the association, including bonds, note and debt obligations, and the financing documents pertaining to them become those of the corporation as of July 1, 2002. The corporation is not required to issue endorsements or certificates of assumption to insureds during the remaining term of in-force transferred policies.

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

3. The Florida Windstorm Underwriting Association and the Residential Property and Casualty Joint Underwriting Association shall take all actions necessary to further evidence the transfers and provide the documents and instruments of further assurance as may reasonably be requested by the corporation for that purpose. The corporation shall execute assumptions and instruments as the trustees or other parties to the financing documents of the Florida Windstorm Underwriting Association or the Residential Property and Casualty Joint Underwriting Association may reasonably request to further evidence the

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transfers and assumptions, which transfers and assumptions, however, are effective on the date provided under this paragraph whether or not, and regardless of the date on which, the assumptions or instruments are executed by the corporation.

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

5. The transfer of all policies, obligations, rights, assets, and liabilities from the Florida Windstorm Underwriting Association to the corporation and the renaming of the Residential Property and Casualty Joint Underwriting Association as the corporation does not affect the coverage with respect to covered policies as defined in s. 215.555(2)(c) provided to these entities by the Florida Hurricane Catastrophe Fund. The coverage provided by the fund to the corporation shall constitute and operate as a full transfer of coverage from the Florida Windstorm Underwriting Association and Residential Property and Casualty Joint Underwriting Association to the corporation.

(z) In enacting the provisions of this section, the Legislature recognizes that both the Florida Windstorm Underwriting Association and the Residential Property and Casualty Joint Underwriting Association have entered into

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financing arrangements that obligate each entity to service its debts and maintain the capacity to repay funds secured under these financing arrangements. It is the intent of the Legislature that nothing in this section be construed to compromise, diminish, or interfere with the rights of creditors under such financing arrangements. It is further the intent of the Legislature to preserve the obligations of the Florida Windstorm Underwriting Association and Residential Property and Casualty Joint Underwriting Association with regard to outstanding financing arrangements, with such obligations passing entirely and unchanged to the corporation and, specifically, to the Citizens account. So long as any bonds, notes, indebtedness, or other financing obligations of the Florida Windstorm Underwriting Association or the Residential Property and Casualty Joint Underwriting Association are outstanding, under the terms of the financing documents pertaining to them, the governing board of the corporation shall have and shall exercise the authority to levy, charge, collect, and receive all premiums, assessments, surcharges, charges, and receipts that the associations had authority to levy, charge, collect, or receive under the provisions of subsection (2) and this subsection, respectively, as they existed on January 1, 2002, to provide moneys, without exercise the authority provided by this subsection, in at least the amounts, and by the times, as would be provided under those

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former provisions of subsection (2) or this subsection, respectively, so that the value, amount, and collectability of any assets, revenues, or revenue source pledged or committed to, any lien thereon securing such outstanding bonds, notes, indebtedness, or other financing obligations will not be diminished, impaired, or adversely affected by the amendments made by this act and to permit compliance with all provisions of financing documents pertaining to such bonds, notes, indebtedness, or other financing obligations, or the security or credit enhancement for them, and any reference in this subsection to bonds, notes, indebtedness, financing obligations, or similar obligations, of the corporation shall include like instruments or contracts of the Florida Windstorm Underwriting Association and the Residential Property and Casualty Joint Underwriting Association to the extent not inconsistent with the provisions of the financing documents pertaining to them.

 $\underline{\text{(11)}_{(nn)}}$  The corporation may share its claims data with the National Insurance Crime Bureau, provided that the National Insurance Crime Bureau agrees to maintain the confidentiality of such documents as otherwise provided for in paragraph (w)  $\underline{\text{(x)}}$ .

(mm) As used in this subsection, the term:

- 1. "Approved surplus lines insurer" means an eligible surplus lines insurer that:
- a. Has a financial strength rating of "A-" or higher from A.M. Best Company;

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b.	На	ıs	a person	nal	lines	resident	cial	risk	program	that	is
managed	by	a	Florida	res	sident	surplus	line	s bro	oker;		

- c. Applies to the office to participate in the take-out process to offer coverage to applicants for new coverage from the corporation or current policyholders of the corporation through a take-out plan approved by the office;
- d. Does not, as part of any take-out plan approved by the office, offer coverage on any personal lines residential risk that is a primary residence or has a homestead exemption under chapter 196;
- e. Files rates for review as part of a take-out plan with the office. The office shall review whether the premium is more than 20 percent greater than the premium for comparable coverage from the corporation; and
- f. Provides data to the office related to coverage and rates in a format promulgated by the commission.
- 2. "Primary residence" means the dwelling that is the policyholder's primary home or is a rental property that is the primary home of the tenant, and which the policyholder or tenant occupies for more than 9 months of each year.
- 3. "Windstorm" means wind, wind gusts, gales, hail, rain, or tornadoes caused by or resulting from a named tropical storm, including a hurricane, which create direct physical loss or damage to property.
  - 4. "Windstorm coverage" is coverage for loss or damage

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caused by the peril of windstorm during a named tropical storm, including coverage for damage to the interior of a building, or to property inside a building, caused by rain, snow, sleet, hail, sand, or dust if the direct force of the windstorm first damages the building, causing an opening through which rain, snow, sleet, hail, sand, or dust enters and causes damage. The coverage includes, but is not limited to, hurricane coverage.

Section 2. Paragraph (c) of subsection (2) and paragraph (e) of subsection (4) of section 215.555, Florida Statutes, are amended to read:

215.555 Florida Hurricane Catastrophe Fund.-

(2) DEFINITIONS.—As used in this section:

(c) "Covered policy" means any insurance policy covering residential property in this state, including, but not limited to, any homeowner, mobile home owner, farm owner, condominium association, condominium unit owner, tenant, or apartment building policy, or any other policy covering a residential structure or its contents issued by any authorized insurer, including a commercial self-insurance fund holding a certificate of authority issued by the Office of Insurance Regulation under s. 624.462, the Citizens Property Insurance Corporation, and any joint underwriting association or similar entity created under law. The term "covered policy" includes any collateral protection insurance policy covering personal residences which protects both the borrower's and the lender's financial

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interests, in an amount at least equal to the coverage amount for the dwelling in place under the lapsed homeowner's policy, the coverage amount that the homeowner has been notified of by the collateral protection insurer, or the coverage amount that the homeowner requests from the collateral protection insurer, if such collateral protection insurance policy can be accurately reported as required in subsection (5). Additionally, covered policies include policies covering the peril of wind removed from the Florida Residential Property and Casualty Joint Underwriting Association or from the Citizens Property Insurance Corporation, created under s. 627.351(5) s. 627.351(6), or from the Florida Windstorm Underwriting Association, created under s. 627.351(2), by an authorized insurer under the terms and conditions of an executed assumption agreement between the authorized insurer and such association or Citizens Property Insurance Corporation. Each assumption agreement between the association and such authorized insurer and or Citizens Property Insurance Corporation must be approved by the Office of Insurance Regulation before the effective date of the assumption, and the Office of Insurance Regulation must provide written notification to the board within 15 working days after such approval. The term "covered policy" does not include any policy that excludes wind coverage or hurricane coverage or any reinsurance agreement and does not include any policy otherwise meeting this definition which is issued by a surplus lines

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insurer or a reinsurer. All commercial residential excess policies and all deductible buy-back policies that, based on sound actuarial principles, require individual ratemaking shall be excluded by rule if the actuarial soundness of the fund is not jeopardized. For this purpose, the term "excess policy" means a policy that provides insurance protection for large commercial property risks and that provides a layer of coverage above a primary layer insured by another insurer.

(4) REIMBURSEMENT CONTRACTS.-

- (e)1. Except as provided in subparagraphs 2. and 3., the contract shall provide that if an insurer demonstrates to the board that it is likely to qualify for reimbursement under the contract, and demonstrates to the board that the immediate receipt of moneys from the board is likely to prevent the insurer from becoming insolvent, the board shall advance the insurer, at market interest rates, the amounts necessary to maintain the solvency of the insurer, up to 50 percent of the board's estimate of the reimbursement due the insurer. The insurer's reimbursement shall be reduced by an amount equal to the amount of the advance and interest thereon.
- 2. With respect only to an entity created under s. 627.351, the contract shall also provide that the board may, upon application by such entity, advance to such entity, at market interest rates, up to 90 percent of the lesser of:
  - a. The board's estimate of the amount of reimbursement due

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2226 to such entity; or

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- The entity's share of the actual reimbursement premium paid for that contract year, multiplied by the currently available liquid assets of the fund. In order for the entity to qualify for an advance under this subparagraph, the entity must demonstrate to the board that the advance is essential to allow the entity to pay claims for a covered event and the board must determine that the fund's assets are sufficient and are sufficiently liquid to allow the board to make an advance to the entity and still fulfill the board's reimbursement obligations to other insurers. The entity's final reimbursement for any contract year in which an advance has been made under this subparagraph must be reduced by an amount equal to the amount of the advance and any interest on such advance. In order to determine what amounts, if any, are due the entity, the board may require the entity to report its exposure and its losses at any time to determine retention levels and reimbursements payable.
- 3. The contract shall also provide specifically and solely with respect to any limited apportionment company under s. 627.351(2)(b)3. that the board may, upon application by such company, advance to such company the amount of the estimated reimbursement payable to such company as calculated pursuant to paragraph (d), at market interest rates, if the board determines that the fund's assets are sufficient and are sufficiently

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liquid to permit the board to make an advance to such company and at the same time fulfill its reimbursement obligations to the insurers that are participants in the fund. Such company's final reimbursement for any contract year in which an advance pursuant to this subparagraph has been made shall be reduced by an amount equal to the amount of the advance and interest thereon. In order to determine what amounts, if any, are due to such company, the board may require such company to report its exposure and its losses at such times as may be required to determine retention levels and loss reimbursements payable.

Section 3. Paragraph (e) of subsection (1) and paragraph (d) of subsection (2) of section 215.5595, Florida Statutes, are amended to read:

215.5595 Insurance Capital Build-Up Incentive Program.-

- (1) Upon entering the 2008 hurricane season, the Legislature finds that:
- (e) Appropriating state funds to be exchanged for surplus notes issued by residential property insurers, under conditions requiring the insurer to contribute additional private sector capital and to write a minimum level of premiums for residential hurricane coverage, is a valid and important public purpose.
- (2) The purpose of this section is to provide funds in exchange for surplus notes to be issued by new or existing authorized residential property insurers under the Insurance Capital Build-Up Incentive Program administered by the State

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Board of Administration, under the following conditions:

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The insurer must commit to increase its writings of residential property insurance, including the peril of wind, and to meet a minimum writing ratio of net written premium to surplus of at least 1:1 for the first calendar year after receiving the state funds or renegotiation of the surplus note, 1.5:1 for the second calendar year, and 2:1 for the remaining term of the surplus note. Alternatively, the insurer must meet a minimum writing ratio of gross written premium to surplus of at least 3:1 for the first calendar year after receiving the state funds or renegotiation of the surplus note, 4.5:1 for the second calendar year, and 6:1 for the remaining term of the surplus note. The writing ratios shall be determined by the Office of Insurance Regulation and certified quarterly to the board. For this purpose, the term "premium" means premium for residential property insurance in this state, including the peril of wind, and "surplus" means the new capital and surplus note of the insurer. An insurer that makes an initial application after July 1, 2008, must also commit to writing at least 15 percent of its net or gross written premium for new policies, not including renewal premiums, for policies taken out of Citizens Property Insurance Corporation, during each of the first 3 years after receiving the state funds in exchange for the surplus note, which shall be determined by the Office of Insurance Regulation and certified annually to the board. The insurer must also

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commit to maintaining a level of surplus and reinsurance sufficient to cover in excess of its 1-in-100 year probable maximum loss, as determined by a hurricane loss model accepted by the Florida Commission on Hurricane Loss Projection Methodology, which shall be determined by the Office of Insurance Regulation and certified annually to the board. If the board determines that the insurer has failed to meet any of the requirements of this paragraph during the term of the surplus note, the board may increase the interest rate, accelerate the repayment of interest and principal, or shorten the term of the surplus note, subject to approval by the Commissioner of Insurance of payments by the insurer of principal and interest as provided in paragraph (f).

# Section 4. Paragraph (w) of subsection (1) of section 624.805, Florida Statutes, is amended to read:

624.805 Hazardous insurer standards; office's evaluation and enforcement authority; immediate final order.—

- (1) In determining whether the continued operation of any authorized insurer transacting business in this state may be deemed to be hazardous to its policyholders or creditors or to the general public, the office may consider, in the totality of the circumstances of such insurer, any of the following:
- (w) As to a residential property insurer, whether it has sufficient capital, surplus, and reinsurance to withstand significant weather events, including, but not limited to,

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2326 hurricanes.

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## Section 5. Paragraph (j) of subsection (2) of section 627.062, Florida Statutes, is amended to read:

- 627.062 Rate standards.-
- (2) As to all such classes of insurance:
- (j) With respect to residential property insurance rate filings, the rate filing:
- 1. Must account for mitigation measures undertaken by policyholders to reduce hurricane losses and windstorm losses  $\underline{\text{if}}$  the insurer provides hurricane or windstorm coverage.
- 2. May use a modeling indication that is the weighted or straight average of two or more hurricane loss projection models found by the Florida Commission on Hurricane Loss Projection Methodology to be accurate or reliable pursuant to s. 627.0628 if the insurer provides hurricane or windstorm coverage. If an averaged model is used under this section, the same averaged model must be used throughout this state. If a weighted average is used, the insurer must provide the office with an actuarial justification for using the weighted average which shows that the weighted average results in a rate that is reasonable, adequate, and fair.

The provisions of this subsection do not apply to workers'
compensation, employer's liability insurance, and motor vehicle
insurance.

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Section 6. Paragraph (c) of subsection (1) and paragraph (d) of subsection (3) of section 627.0628, Florida Statutes, are amended to read:

627.0628 Florida Commission on Hurricane Loss Projection Methodology; public records exemption; public meetings exemption.—

(1) LEGISLATIVE FINDINGS AND INTENT.-

- (c) It is the intent of the Legislature to create the Florida Commission on Hurricane Loss Projection Methodology as a panel of experts to provide the most actuarially sophisticated guidelines and standards for projection of hurricane losses possible, given the current state of actuarial science. It is the further intent of the Legislature that such standards and guidelines must be used by the State Board of Administration in developing reimbursement premium rates for the Florida Hurricane Catastrophe Fund, and, subject to paragraph (3)(d), must be used by insurers that provide hurricane or windstorm coverage in rate filings under s. 627.062 unless the way in which such standards and guidelines were applied by the insurer was erroneous, as shown by a preponderance of the evidence.
  - (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.-
- (d) With respect to a rate filing under s. 627.062, an insurer that provides hurricane or windstorm coverage shall employ and may not modify or adjust actuarial methods, principles, standards, models, or output ranges found by the

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commission to be accurate or reliable in determining hurricane loss factors and probable maximum loss levels for use in a rate filing under s. 627.062. An insurer that provides hurricane or windstorm coverage may employ a model in a rate filing until 120 days after the expiration of the commission's acceptance of that model and may not modify or adjust models found by the commission to be accurate or reliable in determining probable maximum loss levels. This paragraph does not prohibit an insurer from using a straight average of model results or output ranges for the purposes of a rate filing for personal lines residential flood insurance coverage under s. 627.062.

## Section 7. Subsection (1) and paragraph (a) of subsection (3) of section 627.06281, Florida Statutes, are amended to read:

627.06281 Public hurricane loss projection model; reporting of data by insurers.—

and associated exposure data by the office or the Florida
International University center established to study mitigation, residential property insurers that provide hurricane or windstorm coverage and licensed rating and advisory organizations that compile residential property insurance loss data shall provide loss data and associated exposure data for residential property insurance policies to the office or the Florida International University center established to study mitigation, as directed by the office, for the purposes of

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developing, maintaining, and updating a public model for hurricane loss projections. The loss data and associated exposure data provided shall be in writing.

(3) (a) A residential property insurer that provides hurricane or windstorm coverage may have access to and use the public hurricane loss projection model, including all assumptions and factors and all detailed loss results, for the purpose of calculating rate indications in a rate filing and for analytical purposes, including any analysis or evaluation of the model required under actuarial standards of practice.

# Section 8. Subsections (1), (2), (4) and (9) of section 627.0629, Florida Statutes, are amended to read:

627.0629 Residential property insurance; rate filings.-

(1) It is the intent of the Legislature that insurers that provide hurricane or windstorm coverage provide savings to consumers who install or implement windstorm damage mitigation techniques, alterations, or solutions to their properties to prevent windstorm losses. A rate filing for residential property insurance that provides hurricane or windstorm coverage must include actuarially reasonable discounts, credits, or other rate differentials, or appropriate reductions in deductibles, for properties on which fixtures or construction techniques demonstrated to reduce the amount of loss in a windstorm have been installed or implemented. The fixtures or construction techniques must include, but are not limited to, fixtures or

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construction techniques that enhance wind uplift prevention, roof strength, roof covering performance, roof-to-wall strength, wall-to-floor-to-foundation strength, opening protection, and window, door, and skylight strength. Credits, discounts, or other rate differentials, or appropriate reductions in deductibles, for fixtures and construction techniques that meet the minimum requirements of the Florida Building Code must be included in the rate filing. The office shall determine the discounts, credits, other rate differentials, and appropriate reductions in deductibles that reflect the full actuarial value of such revaluation, which may be used by insurers in rate filings. Effective July 1, 2025 October 1, 2023, each insurer subject to the requirements of this section which covers hurricane or windstorm losses must provide information on the insurer's website describing the hurricane mitigation discounts available to policyholders. Such information must be accessible on, or through a hyperlink located on, the home page of the insurer's website or the primary page of the insurer's website for property insurance policyholders or applicants for such coverage in this state. On or before January 1, 2025, and every 5 years thereafter, the office shall reevaluate and update the fixtures or construction techniques demonstrated to reduce the amount of loss in a windstorm and the discounts, credits, other rate differentials, and appropriate reductions in deductibles that reflect the full actuarial value of such fixtures or

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construction techniques. The office shall adopt rules and forms necessitated by such reevaluation.

- (2)(a) A rate filing for residential property insurance made on or before the implementation of paragraph (b) may include rate factors that reflect the manner in which building code enforcement in a particular jurisdiction addresses the risk of wind damage if the insurer provides hurricane or windstorm coverage; however, such a rate filing must also provide for variations from such rate factors on an individual basis based on an inspection of a particular structure by a licensed home inspector, which inspection may be at the cost of the insured.
- (b) A rate filing for residential property insurance made more than 150 days after approval by the office of a building code rating factor plan submitted by a statewide rating organization shall include positive and negative rate factors that reflect the manner in which building code enforcement in a particular jurisdiction addresses risk of wind damage if the insurer provides hurricane or windstorm coverage. The rate filing shall include variations from standard rate factors on an individual basis based on inspection of a particular structure by a licensed home inspector. If an inspection is requested by the insured, the insurer may require the insured to pay the reasonable cost of the inspection. This paragraph applies to structures constructed or renovated after the implementation of this paragraph.

(c) The premium notice shall specify the amount by which the rate has been adjusted as a result of this subsection and shall also specify the maximum possible positive and negative adjustments that are approved for use by the insurer under this subsection.

- (4) The Legislature finds that separate consideration and notice of hurricane insurance premiums will assist consumers by providing greater assurance that hurricane premiums are lawful and by providing more complete information regarding the components of property insurance premiums. If a residential property insurance provides hurricane coverage, a rate filing for residential property insurance shall be separated into two components, rates for hurricane coverage and rates for all other coverages. A premium notice reflecting a rate implemented on the basis of such a filing shall separately indicate the premium for hurricane coverage and the premium for all other coverages.
- coverage may file with the office a personal lines residential property insurance rating plan that provides justified premium discounts, credits, or other rate differentials based on windstorm mitigation construction standards developed by an independent, nonprofit scientific research organization, if such standards meet the requirements of this section. Such plan must describe the manner in which the insurer will document the existence of the mitigation features and premium discounts,

credits, or other rate differentials created under such plan.

## Section 9. Section 627.4025, Florida Statutes, is amended to read:

- 627.4025 Residential coverage and hurricane coverage defined.—
- (1) Residential coverage includes both personal lines residential coverage, which consists of the type of coverage provided by homeowner, mobile home owner, dwelling, tenant, condominium unit owner, cooperative unit owner, and similar policies, and commercial lines residential coverage, which consists of the type of coverage provided by condominium association, cooperative association, apartment building, and similar policies, including policies covering the common elements of a homeowners association. Residential coverage for personal lines and commercial lines as set forth in this section may include includes policies that provide coverage for particular perils such as windstorm and hurricane or coverage for insurer insolvency or deductibles.
- (2) As used in <u>residential property</u> policies <u>that provide</u> <u>hurricane or windstorm <del>providing residential</del> coverage:</u>
- (a) "Hurricane coverage" is coverage for loss or damage caused by wind, wind gusts, hail, rain, tornadoes, or cyclones caused by or resulting from the peril of windstorm during a hurricane. The term includes ensuing damage to the interior of a building, or to property inside a building, caused by rain,

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snow, sleet, hail, sand, or dust if the direct force of the windstorm first damages the building, causing an opening through which rain, snow, sleet, hail, sand, or dust enters and causes damage.

- (b) "Windstorm" for purposes of paragraph (a) means wind, wind gusts, hail, rain, tornadoes, or cyclones caused by or resulting from a named tropical storm, including a hurricane, which create results in direct physical loss or damage to property.
- (c) "Hurricane" for <u>purpose</u> <del>purposes</del> of <u>paragraph</u> <del>paragraphs</del> (a) <del>and (b)</del> means a storm system that has been declared to be a hurricane by the National Hurricane Center of the National Weather Service. The duration of the hurricane includes the time period, in Florida:
- 1. Beginning at the time a hurricane warning is issued for any part of Florida by the National Hurricane Center of the National Weather Service; and
- 2. Ending 72 hours following the termination of the last hurricane watch or hurricane warning issued for any part of Florida by the National Hurricane Center of the National Weather Service.
- (d) "Hurricane deductible" means the deductible applicable to loss caused by a hurricane.
- Section 10. Subsection (3), paragraphs (c) and (d) of subsection (4), and subsections (5) and (9) of section 627.701,

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#### Florida Statutes, are amended to read:

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under the policy.

- 627.701 Liability of insureds; coinsurance; deductibles.-
- 2553 (3) (a) Except as otherwise provided in this subsection, 2554 prior to issuing a personal lines residential property insurance 2555 policy, an the insurer that offers hurricane or windstorm 2556 coverage must offer alternative deductible amounts applicable to 2557 hurricane losses equal to \$500, 2 percent, 5 percent, and 10 2558 percent of the policy dwelling limits, unless the specific 2559 percentage deductible is less than \$500. The written notice of 2560 the offer shall specify the hurricane deductible to be applied 2561 in the event that the applicant or policyholder fails to 2562 affirmatively choose a hurricane deductible. The insurer must 2563 provide such policyholder with notice of the availability of the 2564 deductible amounts specified in this subsection in a form 2565 approved by the office in conjunction with each renewal of the
  - (b) This subsection does not apply with respect to a deductible program lawfully in effect on <u>July 1, 2025</u> <del>June 14, 1995</del>, or to any similar deductible program, if the deductible program requires a minimum deductible amount of no less than 2 percent of the policy limits.

violation of this code but does not affect the coverage provided

policy. The failure to provide such notice constitutes a

(c) With respect to a policy covering a risk with dwelling limits of at least \$100,000, but less than \$250,000, an the

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insurer that offers hurricane or windstorm coverage may, in lieu of offering a policy with a \$500 hurricane deductible as required by paragraph (a), offer a policy that the insurer guarantees it will not nonrenew for reasons of reducing hurricane loss for one renewal period and that contains up to a 2 percent hurricane deductible as required by paragraph (a).

- (d) For the following policies, the following alternative deductible amounts are authorized:
- 1. With respect to a policy covering a risk with dwelling limits of \$250,000 or more, an the insurer that offers hurricane or windstorm coverage need not offer the \$500 hurricane deductible as required by paragraph (a), but must, except as otherwise provided in this subsection, offer the other hurricane deductibles as required by paragraph (a).
- 2. With respect to a policy covering a risk with dwelling limits of \$1 million or more, but less than \$3 million, an the insurer that offers hurricane or windstorm coverage may, in lieu of offering the 2 percent deductible as required by paragraph (a), offer a deductible amount applicable to hurricane losses equal to 3 percent of the policy dwelling limits.
- 3. With respect to a policy covering a risk with dwelling limits of \$3 million or more, an the insurer that offers hurricane or windstorm coverage need not offer the 2 percent deductible as required by paragraph (a), but must, except as otherwise provided by this subsection, offer the other hurricane

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deductibles as required by paragraph (a).

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- For any personal lines residential property insurance policy containing an inflation guard rider, an the insurer that offers hurricane or windstorm coverage shall compute and prominently display the actual dollar value of the hurricane deductible on the declarations page of the policy at issuance and, for renewal, on the renewal declarations page of the policy or on the premium renewal notice. In addition, for any personal lines residential property insurance policy containing an inflation guard rider, an the insurer that offers hurricane or windstorm coverage shall notify the policyholder of the possibility that the hurricane deductible may be higher than indicated when loss occurs due to application of the inflation quard rider. Such notification shall be made on the declarations page of the policy at issuance and, for renewal, on the renewal declarations page of the policy or on the premium renewal notice.
- (d)1. A personal lines residential property insurance policy covering a risk valued at less than \$500,000 and providing hurricane or windstorm coverage may not have a hurricane deductible in excess of 10 percent of the policy dwelling limits, unless the following conditions are met:
- a. The policyholder must personally write or type and provide to the insurer the following statement and sign his or

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her name, which must also be signed by every other named insured on the policy, and dated: "I do not want the insurance on my home to pay for the first (specify dollar value) of damage from hurricanes. I will pay those costs. My insurance will not."

- b. If the structure insured by the policy is subject to a mortgage or lien, the policyholder must provide the insurer with a written statement from the mortgageholder or lienholder indicating that the mortgageholder or lienholder approves the policyholder electing to have the specified deductible.
- 2. A deductible subject to the requirements of this paragraph applies for the term of the policy and for each renewal thereafter. Changes to the deductible percentage may be implemented only as of the date of renewal.
- 3. An insurer shall keep the original copy of the signed statement required by this paragraph, electronically or otherwise, and provide a copy to the policyholder providing the signed statement. A signed statement meeting the requirements of this paragraph creates a presumption that there was an informed, knowing election of coverage.
- 4. The commission shall adopt rules providing appropriate alternative methods for providing the statements required by this section for policyholders who have a handicapping or disabling condition that prevents them from providing a handwritten statement.
  - (5)(a) The hurricane deductible of any personal lines

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residential property insurance policy issued or renewed on or after <u>July 1, 2025</u> <u>May 1, 2005</u>, <u>and providing hurricane or</u> windstorm coverage shall be applied as follows:

- 1. The hurricane deductible shall apply on an annual basis to all covered hurricane losses that occur during the calendar year for losses that are covered under one or more policies issued by the same insurer or an insurer in the same insurer group.
- 2. If a hurricane deductible applies separately to each of one or more structures insured under a single policy, the requirements of this paragraph apply with respect to the deductible for each structure.
- 3. If there was a hurricane loss for a prior hurricane or hurricanes during the calendar year, the insurer may apply a deductible to a subsequent hurricane which is the greater of the remaining amount of the hurricane deductible or the amount of the deductible that applies to perils other than a hurricane. Insurers may require policyholders to report hurricane losses that are below the hurricane deductible or to maintain receipts or other records of such hurricane losses in order to apply such losses to subsequent hurricane claims.
- 4. If there are hurricane losses in a calendar year on more than one policy issued by the same insurer or an insurer in the same insurer group, the hurricane deductible shall be the highest amount stated in any one of the policies. If a

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policyholder who had a hurricane loss under the prior policy is provided or offered a lower hurricane deductible under the new or renewal policy, the insurer must notify the policyholder, in writing, at the time the lower hurricane deductible is provided or offered, that the lower hurricane deductible will not apply until January 1 of the following calendar year.

- (b) For commercial residential property insurance policies issued or renewed on or after <u>July 1, 2025</u> <del>January 1, 2006</del>, <u>and providing hurricane or windstorm coverage</u>, the insurer must offer the policyholder the following alternative hurricane deductibles:
- 1. A hurricane deductible that applies on an annual basis as provided in paragraph (a); and
  - 2. A hurricane deductible that applies to each hurricane.
- (9) With respect to hurricane coverage provided in a policy of residential coverage, when the policyholder has taken appropriate hurricane mitigation measures regarding the residence covered under the policy, an the insurer that offers hurricane or windstorm coverage shall provide the insured the option of selecting an appropriate reduction in the policy's hurricane deductible or selecting the appropriate discount credit or other rate differential as provided in s. 627.0629. An The insurer that offers hurricane or windstorm coverage must provide the policyholder with notice of the options available under this subsection on a form approved by the office.

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Section 11. Section 627.7018, Florida Statutes, is amended to read:

627.7018 Standards for determining risk of coverage.—In determining the risk of providing property insurance coverage, an insurer may not deny coverage solely on the basis of the age of the structure and shall consider the wind resistance of the structure and measures undertaken by the owner to protect the structure against hurricane loss.

## Section 12. Subsections (1), (2), and (3) of section 627.711, Florida Statutes, are amended to read:

627.711 Notice of premium discounts for hurricane loss mitigation; uniform mitigation verification inspection form.—

Regulation, an the insurer that offers hurricane or windstorm coverage shall clearly notify the applicant or policyholder of any personal lines residential property insurance policy, at the time of the issuance of the policy and at each renewal, of the availability and the range of each premium discount, credit, other rate differential, or reduction in deductibles, and combinations of discounts, credits, rate differentials, or reductions in deductibles, for properties on which fixtures or construction techniques demonstrated to reduce the amount of loss in a windstorm can be or have been installed or implemented. The prescribed form shall describe generally what actions the policyholders may be able to take to reduce their

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windstorm premium. The prescribed form and a list of such ranges approved by the office for each insurer licensed in the state offering hurricane or windstorm coverage and providing such discounts, credits, other rate differentials, or reductions in deductibles for properties described in this subsection shall be available for electronic viewing and download from the Department of Financial Services' or the Office of Insurance Regulation's Internet website. The Financial Services Commission may adopt rules to implement this subsection.

- (2) (a) The Financial Services Commission shall develop by rule a uniform mitigation verification inspection form that shall be used by all insurers that offer hurricane or windstorm coverage when submitted by policyholders for the purpose of factoring discounts for wind insurance. In developing the form, the commission shall seek input from the Citizens Property Insurance Corporation and the insurance, construction, and building code representatives. Further, the commission shall provide guidance as to the length of time the inspection results are valid. Insurers that offer hurricane or windstorm coverage An insurer shall accept as valid a uniform mitigation verification form signed by the following authorized mitigation inspectors:
- 1. A home inspector licensed under s. 468.8314 who has completed at least 3 hours of hurricane mitigation training approved by the Construction Industry Licensing Board which

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2751 includes hurricane mitigation techniques and compliance with the 2752 uniform mitigation verification form and completion of a 2753 proficiency exam;

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- 2. A building code inspector certified under s. 468.607;
- A general, building, or residential contractor licensed 2756 under s. 489.111;
  - 4. A professional engineer licensed under s. 471.015;
  - A professional architect licensed under s. 481.213; or
  - Any other individual or entity recognized by the insurer as possessing the necessary qualifications to properly complete a uniform mitigation verification form.
  - An insurer that offers hurricane or windstorm coverage may, but is not required to, accept a form from any other person possessing qualifications and experience acceptable to the insurer.
  - A person who is authorized to sign a mitigation verification form must inspect the structures referenced by the form personally, not through employees or other persons, and must certify or attest to personal inspection of the structures referenced by the form. However, licensees under s. 471.015 or s. 489.111 may authorize a direct employee, who is not an independent contractor, and who possesses the requisite skill, knowledge and experience, to conduct a mitigation verification inspection. Insurers that offer hurricane or windstorm coverage shall have the right to request and obtain information from the

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authorized mitigation inspector under s. 471.015 or s. 489.111, regarding any authorized employee's qualifications <u>before</u> prior to accepting a mitigation verification form performed by an employee that is not licensed under s. 471.015 or s. 489.111.

Section 13. Section 627.712, Florida Statutes is amended to read:

- 627.712 Residential <u>property insurance exclusion</u> <del>windstorm</del> <del>coverage required; availability of exclusions</del> for <del>windstorm or</del> contents.—
- (1) An insurer issuing a residential property insurance policy must provide windstorm coverage. Except as provided in paragraph (2)(c), this section does not apply to risks that are eligible for wind-only coverage from Citizens Property Insurance Corporation under s. 627.351(6), and risks that are not eligible for coverage from Citizens Property Insurance Corporation under s. 627.351(6)(a)3. or 5. A risk ineligible for coverage by the corporation under s. 627.351(6)(a)3. or 5. is exempt from this section only if the risk is located within the boundaries of the coastal account of the corporation.
- (2) A property insurer must make available, at the option of the policyholder, an exclusion of windstorm coverage.
  - (a) The coverage may be excluded only if:
- 1. When the policyholder is a natural person, the policyholder personally writes or types and provides to the insurer the following statement and signs his or her name, which

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must also be signed by every other named insured on the policy, and dated: "I do not want the insurance on my (home/mobile home/condominium unit) to pay for damage from windstorms. I will pay those costs. My insurance will not."

- 2. When the policyholder is other than a natural person, the policyholder provides to the insurer on the policyholder's letterhead the following statement that must be signed by the policyholder's authorized representative and dated: "...(Name of entity)... does not want the insurance on its ...(type of structure)... to pay for damage from windstorms. ...(Name of entity)... will be responsible for these costs. ...(Name of entity's)... insurance will not."
- (b) If the structure insured by the policy is subject to a mortgage or lien, the policyholder must provide the insurer with a written statement from the mortgageholder or lienholder indicating that the mortgageholder or lienholder approves the policyholder electing to exclude windstorm coverage or hurricane coverage from his or her or its property insurance policy.
- (c) An insurer nonrenewing a policy and issuing a replacement policy, or issuing a new policy, that does not provide wind coverage shall provide a notice to the mortgageholder or lienholder indicating the policyholder has elected coverage that does not cover wind.
- $\underline{\text{(1)}}$  An insurer issuing a residential property insurance policy, except for a condominium unit owner policy or a tenant

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policy, must make available, at the option of the policyholder, an exclusion of coverage for the contents. The coverage may be excluded only if the policyholder personally writes or types and provides to the insurer the following statement and signs his or her signature, which must also be signed by every other named insured on the policy, and dated: "I do not want the insurance on my (home/mobile home) to pay for the costs to repair or replace any contents that are damaged. I will pay those costs. My insurance will not."

- (2)(4) An insurer shall keep the original copy of a signed statement required by this section, electronically or otherwise, and provide a copy to the policyholder providing the signed statement. A signed statement meeting the requirements of this section creates a presumption that there was an informed, knowing rejection of coverage.
- (1) applies this section apply for the term of the policy and for each renewal thereafter. Changes to the exclusion exclusions authorized by this section may be implemented only as of the date of renewal.
- (4)(6) The commission shall adopt rules providing appropriate alternative methods for providing the statements required by this section for policyholders who have a handicapping or disabling condition that prevents them from providing a handwritten statement.

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2851	Section 14. Section 627.713, Florida Statutes, is amended
2852	to read:
2853	627.713 Report of hurricane loss data.—The office may
2854	require property insurers that provide hurricane or windstorm
2855	coverage to report data regarding hurricane claims and
2856	underwriting costs, including, but not limited to:
2857	(1) Number of claims.
2858	(2) Amount of claim payments made.
2859	(3) Number and amount of total-loss claims.
2860	(4) Amount and percentage of losses covered by reinsurance
2861	or other loss-transfer agreements.
2862	(5) Amount of losses covered under specified deductibles.
2863	(6) Claims and payments for specified insured values.
2864	(7) Claims and payments for specified dollar values.
2865	(8) Claims and payments for specified types of
2866	construction or mitigation features.
2867	(9) Claims and payments for policies under specified
2868	underwriting criteria.
2869	(10) Claims and payments for contents, additional living
2870	expense, and other specified coverages.
2871	(11) Claims and payments by county for the information
2872	specified in this section.
2873	(12) Any other data that the office requires.
2874	Section 15. Subsection (7) of section 631.54, Florida

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CODING: Words stricken are deletions; words underlined are additions.

Statutes, is amended to read:

2876	631.54	Definitions.—As	used in	this	part:

- (7) "Homeowner's insurance" means personal lines residential property insurance coverage that consists of the type of coverage provided under homeowner's, dwelling, and similar policies for repair or replacement of the insured structure and contents, which policies are written directly to the individual homeowner. Residential coverage for personal lines as set forth in this section:
- (a) Includes policies that provide coverage for particular perils, except that such residential coverage policies may, but are not required to, provide such as windstorm and hurricane coverage; and
- (b) but Excludes all coverage for mobile homes, renter's insurance, or tenant's coverage.

The term "homeowner's insurance" excludes commercial residential policies covering condominium associations or homeowners' associations, which associations have a responsibility to provide insurance coverage on residential units within the association, and also excludes coverage for the common elements of a homeowners' association.

Section 16. Paragraph (a) of subsection (11) of section 718.111, Florida Statutes, is amended to read:

- 718.111 The association.
- (11) INSURANCE.—In order to protect the safety, health,

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and welfare of the people of the State of Florida and to ensure consistency in the provision of insurance coverage to condominiums and their unit owners, this subsection applies to every residential condominium in the state, regardless of the date of its declaration of condominium. It is the intent of the Legislature to encourage lower or stable insurance premiums for associations described in this subsection.

- (a) Adequate property insurance, regardless of any requirement in the declaration of condominium for coverage by the association for full insurable value, replacement cost, or similar coverage, must be based on the replacement cost of the property to be insured as determined by an independent insurance appraisal or update of a prior appraisal. The replacement cost must be determined at least once every 36 months.
- 1. An association or group of associations may provide adequate property insurance through a self-insurance fund that complies with the requirements of ss. 624.460-624.488.
- 2.a. The association may also provide adequate property insurance coverage for a group of at least three communities created and operating under this chapter, chapter 719, chapter 720, or chapter 721 by obtaining and maintaining for such communities insurance coverage sufficient to cover an amount equal to the probable maximum loss for the communities for a 250-year windstorm event. Such probable maximum loss must be determined through the use of a competent model that has been

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accepted by the Florida Commission on Hurricane Loss Projection Methodology. A policy or program providing such coverage may not be issued or renewed after July 1, 2008, unless it has been reviewed and approved by the Office of Insurance Regulation. The review and approval must include approval of the policy and related forms pursuant to ss. 627.410 and 627.411, approval of the rates pursuant to s. 627.062, a determination that the loss model approved by the commission was accurately and appropriately applied to the insured structures to determine the 250-year probable maximum loss, and a determination that complete and accurate disclosure of all material provisions is provided to condominium unit owners before execution of the agreement by a condominium association.

- b. The association may also obtain windstorm coverage for the communities provided by Citizens Property Insurance Corporation under s. 627.351(5)(a)3.
- 3. When determining the adequate amount of property insurance coverage, the association may consider deductibles as determined by this subsection.
- Section 17. Paragraph (a) of subsection (3) of section 719.104, Florida Statutes, is amended to read:
- 719.104 Cooperatives; access to units; records; financial reports; assessments; purchase of leases.—
- (3) INSURANCE.—The association shall use its best efforts to obtain and maintain adequate insurance to protect the

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association property. The association may also obtain and maintain liability insurance for directors and officers, insurance for the benefit of association employees, and flood insurance. A copy of each policy of insurance in effect shall be made available for inspection by unit owners at reasonable times.

- (a) Windstorm insurance coverage for a group of no fewer than three communities created and operating under chapter 718, this chapter, chapter 720, or chapter 721 may be obtained and maintained for the communities if the insurance coverage is:
- 1. Sufficient to cover an amount equal to the probable maximum loss for the communities for a 250-year windstorm event. Such probable maximum loss must be determined through the use of a competent model that has been accepted by the Florida Commission on Hurricane Loss Projection Methodology. Such insurance coverage is deemed adequate windstorm insurance for the purposes of this section; or
- 2. Provided by Citizens Property Insurance Corporation under s. 627.351(5)(a)3.
- Section 18. Subsection (11) of section 720.303, Florida Statutes, is amended to read:
- 720.303 Association powers and duties; meetings of board; official records; budgets; financial reporting; association funds; recalls.—
  - (11) WINDSTORM INSURANCE. Windstorm insurance coverage for

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a group of no fewer than three communities created and operating under chapter 718, chapter 719, this chapter, or chapter 721 may be obtained and maintained for the communities if the insurance coverage is:

- (a) Sufficient to cover an amount equal to the probable maximum loss for the communities for a 250-year windstorm event. Such probable maximum loss must be determined through the use of a competent model that has been accepted by the Florida Commission on Hurricane Loss Projection Methodology. Such insurance coverage is deemed adequate windstorm coverage for purposes of this chapter; or
- (b) Provided by Citizens Property Insurance Corporation under s. 627.351(5)(a)3.

Section 19. Paragraph (b) of subsection (2) of section 395.1061, Florida Statutes, is amended to read:

395.1061 Professional liability coverage. -

(2) Each hospital, unless exempted under paragraph (3)(b), must demonstrate financial responsibility for maintaining professional liability coverage to pay claims and costs ancillary thereto arising out of the rendering of or failure to render medical care or services and for bodily injury or property damage to the person or property of any patient arising out of the activities of the hospital or arising out of the activities of covered individuals, to the satisfaction of the Agency for Health Care Administration, by meeting one of the

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3001 following requirements:

(b) Obtain professional liability coverage in an amount equivalent to \$10,000 or more per claim for each bed in such hospital from a private insurer, from the Joint Underwriting Association established under  $\underline{s. 627.351(3)} \ \underline{s. 627.351(4)}$ , or through a plan of self-insurance as provided in  $\underline{s. 627.357}$ . However, a hospital may not be required to obtain such coverage in an amount exceeding a \$2.5 million annual aggregate.

Section 20. Paragraph (b) of subsection (1) and paragraph (b) of subsection (2) of section 458.320, Florida Statutes, are amended to read:

458.320 Financial responsibility.-

- (1) As a condition of licensing and maintaining an active license, and prior to the issuance or renewal of an active license or reactivation of an inactive license for the practice of medicine, an applicant must by one of the following methods demonstrate to the satisfaction of the board and the department financial responsibility to pay claims and costs ancillary thereto arising out of the rendering of, or the failure to render, medical care or services:
- (b) Obtaining and maintaining professional liability coverage in an amount not less than \$100,000 per claim, with a minimum annual aggregate of not less than \$300,000, from an authorized insurer as defined under s. 624.09, from a surplus lines insurer as defined under s. 626.914(2), from a risk

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retention group as defined under s. 627.942, from the Joint Underwriting Association established under  $\underline{s. 627.351(3)}$   $\underline{s. 627.351(4)}$ , or through a plan of self-insurance as provided in s. 627.357. The required coverage amount set forth in this paragraph may not be used for litigation costs or attorney's fees for the defense of any medical malpractice claim.

- (2) Physicians who perform surgery in an ambulatory surgical center licensed under chapter 395 and, as a continuing condition of hospital staff privileges, physicians who have staff privileges must also establish financial responsibility by one of the following methods:
- (b) Obtaining and maintaining professional liability coverage in an amount not less than \$250,000 per claim, with a minimum annual aggregate of not less than \$750,000 from an authorized insurer as defined under s. 624.09, from a surplus lines insurer as defined under s. 626.914(2), from a risk retention group as defined under s. 627.942, from the Joint Underwriting Association established under s. 627.351(3) s. 627.351(4), through a plan of self-insurance as provided in s. 627.357, or through a plan of self-insurance which meets the conditions specified for satisfying financial responsibility in s. 766.110. The required coverage amount set forth in this paragraph may not be used for litigation costs or attorney's fees for the defense of any medical malpractice claim.

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This subsection shall be inclusive of the coverage in subsection (1).

Section 21. Paragraph (b) of subsection (1) and paragraph (b) of subsection (2) of section 459.0085, Florida Statutes, are amended to read:

459.0085 Financial responsibility.-

- (1) As a condition of licensing and maintaining an active license, and prior to the issuance or renewal of an active license or reactivation of an inactive license for the practice of osteopathic medicine, an applicant must by one of the following methods demonstrate to the satisfaction of the board and the department financial responsibility to pay claims and costs ancillary thereto arising out of the rendering of, or the failure to render, medical care or services:
- (b) Obtaining and maintaining professional liability coverage in an amount not less than \$100,000 per claim, with a minimum annual aggregate of not less than \$300,000, from an authorized insurer as defined under s. 624.09, from a surplus lines insurer as defined under s. 626.914(2), from a risk retention group as defined under s. 627.942, from the Joint Underwriting Association established under s. 627.351(3) s. 627.351(4), or through a plan of self-insurance as provided in s. 627.357. The required coverage amount set forth in this paragraph may not be used for litigation costs or attorney's fees for the defense of any medical malpractice claim.

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(2) Osteopathic physicians who perform surgery in an ambulatory surgical center licensed under chapter 395 and, as a continuing condition of hospital staff privileges, osteopathic physicians who have staff privileges must also establish financial responsibility by one of the following methods:

(b) Obtaining and maintaining professional liability coverage in an amount not less than \$250,000 per claim, with a minimum annual aggregate of not less than \$750,000 from an authorized insurer as defined under s. 624.09, from a surplus lines insurer as defined under s. 626.914(2), from a risk retention group as defined under s. 627.942, from the Joint Underwriting Association established under s. 627.351(3) s. 627.351(4), through a plan of self-insurance as provided in s. 627.357, or through a plan of self-insurance that meets the conditions specified for satisfying financial responsibility in s. 766.110. The required coverage amount set forth in this paragraph may not be used for litigation costs or attorney's fees for the defense of any medical malpractice claim.

This subsection shall be inclusive of the coverage in subsection (1).

Section 22. Paragraph (a) of subsection (2) of section 464.0123, Florida Statutes, is amended to read:

464.0123 Autonomous practice by an advanced practice registered nurse.—

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(2) FINANCIAL RESPONSIBILITY.-

- (a) An advanced practice registered nurse registered under this section must, by one of the following methods, demonstrate to the satisfaction of the board and the department financial responsibility to pay claims and costs ancillary thereto arising out of the rendering of, or the failure to render, nursing care, treatment, or services:
- 1. Obtaining and maintaining professional liability coverage in an amount not less than \$100,000 per claim, with a minimum annual aggregate of not less than \$300,000, from an authorized insurer as defined in s. 624.09, from a surplus lines insurer as defined in s. 626.914(2), from a risk retention group as defined in s. 627.942, from the Joint Underwriting Association established under  $\underline{s. 627.351(3)}$   $\underline{s. 627.351(4)}$ , or through a plan of self-insurance as provided in s. 627.357; or
- 2. Obtaining and maintaining an unexpired, irrevocable letter of credit, established pursuant to chapter 675, in an amount of not less than \$100,000 per claim, with a minimum aggregate availability of credit of not less than \$300,000. The letter of credit must be payable to the advanced practice registered nurse as beneficiary upon presentment of a final judgment indicating liability and awarding damages to be paid by the advanced practice registered nurse or upon presentment of a settlement agreement signed by all parties to such agreement when such final judgment or settlement is a result of a claim

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3126 arising out of the rendering of, or the failure to render, 3127 nursing care and services.

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# Section 23. Paragraph (a) of subsection (10) of section 624.424, Florida Statutes, is amended to read:

624.424 Annual statement and other information.-

- (10) (a) By January 1, 2025, and each month thereafter, each insurer or insurer group doing business in this state shall file on a monthly basis a supplemental report on an individual and group basis on a form prescribed by the commission with information on personal lines and commercial lines residential property insurance policies in this state. The supplemental report must include separate information for personal lines property policies and totals for each item specified, including premiums written for each of the property lines of business as described in ss. 215.555(2)(c) and 627.351(5)(a) 627.351(6)(a). The report must include the following information for each zip code:
- 1. Total number of policies in force at the end of each month.
  - 2. Total number of policies canceled.
  - 3. Total number of policies nonrenewed.
  - 4. Number of policies canceled due to hurricane risk.
  - 5. Number of policies nonrenewed due to hurricane risk.
  - 6. Number of new policies written.
  - 7. Total dollar value of structure exposure under policies

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3151 that include wind coverage.

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- 8. Number of policies that exclude wind coverage.
- 3153 9. Number of claims open each month.
  - 10. Number of claims closed each month.
  - 11. Number of claims pending each month.
  - 12. Number of claims in which either the insurer or insured invoked any form of alternative dispute resolution, and specifying which form of alternative dispute resolution was used.

## Section 24. Paragraph (a) of subsection (2) and subsection (5) of section 624.462, Florida Statutes, are amended to read:

- 624.462 Commercial self-insurance funds.-
- (2) As used in ss. 624.460-624.488, "commercial self-insurance fund" or "fund" means a group of members, operating individually and collectively through a trust or corporation, that must be:
  - (a) Established by:
- 1. A not-for-profit trade association, industry association, or professional association of employers or professionals which has a constitution or bylaws, which is incorporated under the laws of this state, and which has been organized for purposes other than that of obtaining or providing insurance and operated in good faith for a continuous period of 1 year;
  - 2. A self-insurance trust fund organized pursuant to s.

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627.357 and maintained in good faith for a continuous period of 1 year for purposes other than that of obtaining or providing insurance pursuant to this section. Each member of a commercial self-insurance trust fund established pursuant to this subsection must maintain membership in the self-insurance trust fund organized pursuant to s. 627.357;

- 3. A group of 10 or more health care providers, as defined in  $\underline{s.\ 627.351(3)(h)}$   $\underline{s.\ 627.351(4)(h)}$ , for purposes of providing medical malpractice coverage; or
- 4. A not-for-profit group comprised of one or more community associations responsible for operating at least 50 residential parcels or units created and operating under chapter 718, chapter 719, chapter 720, chapter 721, or chapter 723 which restricts its membership to community associations only and which has been organized and maintained in good faith for the purpose of pooling and spreading the liabilities of its group members relating to property or casualty risk or surety insurance which, in accordance with applicable provisions of part I of chapter 626, appoints resident general lines agents only, and which does not prevent, impede, or restrict any applicant or fund participant from maintaining or selecting an agent of choice. The fund may not refuse to appoint the agent of record for any fund applicant or fund member and may not favor one or more such appointed agents over other appointed agents.
  - (5) A commercial self-insurance fund created under

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subparagraph (2)(a)4. shall be an insurer for the purpose of any assessments levied by the Florida Hurricane Catastrophe Fund as provided under s. 215.555 or by the Citizens Property Insurance Corporation as provided under  $\underline{s}$ . 627.351(5)(b)3  $\underline{s}$ . 627.351(6)(b)3. The office shall establish the method for determining the imputed premium that is subject to any such assessment.

#### Section 25. Section 625.317, Florida Statutes, is amended to read:

625.317 Corporate bonds and debentures.—An insurer may invest in bonds, notes, or other interest-bearing or interest-accruing obligations of any solvent corporation organized under the laws of the United States or Canada or under the laws of any state, the District of Columbia, any territory or possession of the United States, or any Province of Canada or in bonds or notes issued by the Citizens Property Insurance Corporation as authorized by s. 627.351(5) s. 627.351(6).

# Section 26. Subsection (2) of section 627.0655, Florida Statutes, is amended to read:

627.0655 Policyholder loss or expense-related premium discounts.—An insurer or person authorized to engage in the business of insurance in this state may include, in the premium charged an insured for any policy, contract, or certificate of insurance, a discount based on the fact that another policy, contract, or certificate of any type has been purchased by the

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3226 insured from:

- (2) The Citizens Property Insurance Corporation created under  $\underline{s. 627.351(5)}$   $\underline{s. 627.351(6)}$ , if the same insurance agent is servicing both policies;
- Section 27. Subsection (4) and paragraph (b) of subsection (6) of section 627.3511, Florida Statutes, are amended to read:
- 627.3511 Depopulation of Citizens Property Insurance Corporation.—
- (4) AGENT BONUS.—When the corporation enters into a contractual agreement for a take-out plan that provides a bonus to the insurer, the producing agent of record of the corporation policy is entitled to retain any unearned commission on such policy, and the insurer shall either:
- (a) Pay to the producing agent of record of the association policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the corporation; or
- (b) Offer to allow the producing agent of record of the corporation policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the corporation's usual and customary commission for the type of policy written.
- If the producing agent is unwilling or unable to accept

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appointment, the new insurer shall pay the agent in accordance with paragraph (a). The requirement of this subsection that the producing agent of record is entitled to retain the unearned commission on an association policy does not apply to a policy for which coverage has been provided in the association for 30 days or less or for which a cancellation notice has been issued pursuant to  $\underline{s. 627.351(5)(c)9} \ \underline{s. 627.351(6)(c)10}$ . during the first 30 days of coverage.

(6) COMMERCIAL RESIDENTIAL TAKE-OUT PLANS.-

- (b) In order for a plan to qualify for approval:
- 1. At least 40 percent of the policies removed from the corporation under the plan must be located in Miami-Dade, Broward, and Palm Beach Counties, or at least 30 percent of the policies removed from the corporation under the plan must be located in such counties and an additional 50 percent of the policies removed from the corporation must be located in other coastal counties.
- 2. The insurer must renew the replacement policy at approved rates on substantially similar terms for two additional 1-year terms, unless canceled or nonrenewed by the insurer for a lawful reason other than reduction of hurricane exposure. If an insurer assumes the corporation's obligations for a policy, it must issue a replacement policy for a 1-year term upon expiration of the corporation policy and must renew the replacement policy at approved rates on substantially similar

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terms for two additional 1-year terms, unless canceled by the insurer for a lawful reason other than reduction of hurricane exposure. For each replacement policy canceled or nonrenewed by the insurer for any reason during the 3-year coverage period required by this subparagraph, the insurer must remove from the corporation one additional policy covering a risk similar to the risk covered by the canceled or nonrenewed policy.

## Section 28. Subsection (1) of section 627.3512, Florida Statutes, is amended to read:

627.3512 Recoupment of residual market deficit assessments.—

assessments paid by an insurer or insurer group as a result of a levy by any residual market entity, including regular assessments levied on insurers by Citizens Property Insurance Corporation and any other assessments levied on insurers by an insurance risk apportionment plan or assigned risk plan under s. 627.311 or s. 627.351 constitute advances of funds from the insurer to the residual market entity, and that the insurer is entitled to fully recoup such advances. An insurer or insurer group may recoup any assessments that have been paid during or after 1995 by the insurer or insurer group to defray deficits of an insurance risk apportionment plan or assigned risk plan under ss. 627.311 and 627.351, net of any earnings returned to the insurer or insurer group by the association or plan for any year

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3301	after 1993. A limited apportionment company as defined in $\underline{\mathbf{s.}}$
3302	627.351(5)(c) s. 627.351(6)(e) may recoup any regular assessment
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- Section 29. Paragraph (a) of subsection (1) and subsection (5) of section 627.3513, Florida Statutes, are amended to read:
- 627.3513 Standards for sale of bonds by Citizens Property Insurance Corporation.—
- (1) (a) The purpose of this section is to provide standards for the sale of bonds pursuant to  $\underline{s. 627.351(5)}$   $\underline{s. 627.351(2)}$  and (6).
- (5) This section is not intended to restrict or prohibit the employment of professional services relating to bonds issued under  $\underline{s. 627.351(5)}$   $\underline{s. 627.351(6)}$  or the issuance of bonds by the corporation.
- Section 30. Paragraph (a) of subsection (3) of section 627.3515, Florida Statutes, is amended to read:
- 627.3515 Market assistance plan; property and casualty risks.—
- (3) (a) The plan and the corporation shall develop a business plan and present it to the Financial Services Commission for approval by September 1, 2007, to provide for the implementation of an electronic database for the purpose of confirming eligibility pursuant to  $\underline{s. 627.351(5)}$   $\underline{s. 627.351(6)}$ . The business plan may provide that authorized insurers or agents

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of authorized insurers may submit to the plan or the corporation in electronic form, as determined by the plan or the corporation, information determined necessary by the plan or the corporation to deny coverage to risks ineligible for coverage by the corporation. Any authorized insurer submitting such information that results in a risk being denied coverage by the corporation is required to offer coverage to the risk at its approved rates, for the coverage and premium quoted, for at least 1 year.

#### Section 31. Section 627.3517, Florida Statutes, is amended to read:

627.3517 Consumer choice.—No provision of s. 627.351, s. 627.3511, or s. 627.3515 shall be construed to impair the right of any insurance risk apportionment plan policyholder, upon receipt of any keepout or take-out offer, to retain his or her current agent, so long as that agent is duly licensed and appointed by the insurance risk apportionment plan or otherwise authorized to place business with the insurance risk apportionment plan. This right shall not be canceled, suspended, impeded, abridged, or otherwise compromised by any rule, plan of operation, or depopulation plan, whether through keepout, takeout, midterm assumption, or any other means, of any insurance risk apportionment plan or depopulation plan, including, but not limited to, those described in s. 627.351, s. 627.3511, or s. 627.3515. The commission shall adopt any rules necessary to

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cause any insurance risk apportionment plan or market assistance plan under such sections to demonstrate that the operations of the plan do not interfere with, promote, or allow interference with the rights created under this section. If the policyholder's current agent is unable or unwilling to be appointed with the insurer making the take-out or keepout offer, the policyholder shall not be disqualified from participation in the appropriate insurance risk apportionment plan because of an offer of coverage in the voluntary market. An offer of full property insurance coverage by the insurer currently insuring either the ex-wind or wind-only coverage on the policy to which the offer applies shall not be considered a take-out or keepout offer. Any rule, plan of operation, or plan of depopulation, through keepout, take-out, midterm assumption, or any other means, of any property insurance risk apportionment plan under s. 627.351(5) s. 627.351(2) or (6) is subject to ss. 627.351(5)(c) ss. 627.351(2)(b) and (6)(c) and 627.3511(4).Section 32. Subsection (5), paragraph (a) of subsection (6), and paragraph (a) of subsection (7) of section 627.3518, Florida Statutes, are amended to read:

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

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

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3376 coverage from the corporation is not eligible for coverage from 3377 the corporation if provided an offer of coverage from an 3378 authorized insurer through the program at a premium that is at 3379 or below the eligibility threshold for applicants for new 3380 coverage of a primary residence established in s. 3381  $627.351(5)(c)4.a. \frac{627.351(6)(c)5.a.}{c}$ , or for applicants for 3382 new coverage of a risk that is not a primary residence 3383 established in s. 627.351(5)(c)4.b + 627.351(6)(c)5.b. Whenever an offer of coverage for a personal lines risk is received for a 3384 3385 policyholder of the corporation at renewal from an authorized 3386 insurer through the program which is at or below the eligibility 3387 threshold for primary residences of policyholders of the 3388 corporation established in s. 627.351(5)(c)4.a. s. 3389 627.351(6)(c)5.a., or the eligibility threshold for risks that 3390 are not primary residences of policyholders of the corporation established in s.  $627.351(5)(c)4.b. \frac{s. 627.351(6)(c)5.b.}{,}$  the 3391 3392 risk is not eligible for coverage with the corporation. In the 3393 event an offer of coverage for a new applicant is received from 3394 an authorized insurer through the program, and the premium 3395 offered exceeds the eligibility threshold for applicants for new 3396 coverage of a primary residence established in s. 3397 627.351(5)(c)4.a. s. 627.351(6)(c)5.a., or the eligibility 3398 threshold for applicants for new coverage on a risk that is not a primary residence established in s. 627.351(5)(c)4.b. s. 3399 627.351(6)(c)5.b., the applicant or insured may elect to accept 3400

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such coverage, or may elect to accept or continue coverage with the corporation. In the event an offer of coverage for a personal lines risk is received from an authorized insurer at renewal through the program, and the premium offered exceeds the eligibility threshold for primary residences of policyholders of the corporation established in s. 627.351(5)(c)4.a. s.627.351(6)(c)5.a., or exceeds the eligibility threshold for risks that are not primary residences of policyholders of the corporation established in s. 627.351(5)(c)4.b. s. 627.351(6)(c)5.b., the insured may elect to accept such coverage, or may elect to accept or continue coverage with the corporation. Section 627.351(5)(c)4.a.(I)and b.(I) does not apply to an offer of coverage from an authorized insurer obtained through the program. As used in this subsection, the term "primary residence" has the same meaning as in s. 627.351(5) (mm) s. 627.351(6) (c) 2.a.

- (6) Independent insurance agents submitting new applications for coverage or that are the agent of record on a renewal policy submitted to the program:
- (a) Are granted and must maintain ownership and the exclusive use of expirations, records, or other written or electronic information directly related to such applications or renewals written through the corporation or through an insurer participating in the program, notwithstanding  $\underline{s}$ .

  627.351(5)(c)4.a.(I)(B)  $\underline{s}$ .627.351(6)(c)5.a.(I)(B) and (II)(B)

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or <u>s. 627.351(5)(c)4.b.(I)(B)</u> s. 627.351(6)(c)5.b.(I)(B) and (II)(B). Such ownership is granted for as long as the insured remains with the agency or until sold or surrendered in writing by the agent. Contracts with the corporation or required by the corporation must not amend, modify, interfere with, or limit such rights of ownership. Such expirations, records, or other written or electronic information may be used to review an application, issue a policy, or for any other purpose necessary for placing such business through the program.

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

- (7) Exclusive agents submitting new applications for coverage or that are the agent of record on a renewal policy submitted to the program:
- (a) Must maintain ownership and the exclusive use of expirations, records, or other written or electronic information directly related to such applications or renewals written through the corporation or through an insurer participating in the program, notwithstanding  $\underline{s}$ . 627.351(5)(c)4.a.(I)(B)  $\underline{s}$ . 627.351(6)(c)5.a.(I)(B) and (II)(B) or  $\underline{s}$ . 627.351(5)(c)4.b.(I)(B) and (II)(B)  $\underline{s}$ . 627.351(6)(c)5.b.(I)(B) and (II)(B). Contracts with the corporation or required by the corporation

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must not amend, modify, interfere with, or limit such rights of ownership. Such expirations, records, or other written or electronic information may be used to review an application, issue a policy, or for any other purpose necessary for placing such business through the program.

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

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# Section 33. Paragraphs (b) of subsection (2) of section 627.4133, Florida Statutes, is amended to read:

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627.4133 Notice of cancellation, nonrenewal, or renewal premium.—

With respect to any personal lines or commercial

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residential property insurance policy, including, but not limited to, any homeowner, mobile home owner, farmowner, condominium association, condominium unit owner, apartment

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building, or other policy covering a residential structure or its contents:

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notice of nonrenewal, cancellation, or termination at least 120 days before the effective date of the nonrenewal, cancellation,

The insurer shall give the first-named insured written

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or termination. The notice must include the reason for the

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nonrenewal, cancellation, or termination, except that:

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- If cancellation is for nonpayment of premium, at least 10 days' written notice of cancellation accompanied by the reason therefor must be given. As used in this subparagraph, the term "nonpayment of premium" means failure of the named insured to discharge when due her or his obligations for paying the premium on a policy or an installment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under a premium finance plan or extension of credit, or failure to maintain membership in an organization if such membership is a condition precedent to insurance coverage. The term also means the failure of a financial institution to honor an insurance applicant's check after delivery to a licensed agent for payment of a premium even if the agent has previously delivered or transferred the premium to the insurer. If a dishonored check represents the initial premium payment, the contract and all contractual obligations are void ab initio unless the nonpayment is cured within the earlier of 5 days after actual notice by certified mail is received by the applicant or 15 days after notice is sent to the applicant by certified mail or registered mail. If the contract is void, any premium received by the insurer from a third party must be refunded to that party in full.
- 2. If cancellation or termination occurs during the first 60 days the insurance is in force and the insurance is canceled or terminated for reasons other than nonpayment of premium, at

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least 20 days' written notice of cancellation or termination accompanied by the reason therefor must be given unless there has been a material misstatement or misrepresentation or a failure to comply with the underwriting requirements established by the insurer.

- 3. After the policy has been in effect for 60 days, the policy may not be canceled by the insurer unless there has been a material misstatement; a nonpayment of premium; a failure to comply, within 60 days after the date of effectuation of coverage, with underwriting requirements established by the insurer before the date of effectuation of coverage; or a substantial change in the risk covered by the policy or unless the cancellation is for all insureds under such policies for a given class of insureds. This subparagraph does not apply to individually rated risks that have a policy term of less than 90 days.
- 4. After a policy or contract has been in effect for more than 60 days, the insurer may not cancel or terminate the policy or contract based on credit information available in public records.
- 5. A policy that is nonrenewed by Citizens Property Insurance Corporation, pursuant to  $\underline{s. 627.351(5)}$   $\underline{s. 627.351(6)}$ , for a policy that has been assumed by an authorized insurer offering replacement coverage to the policyholder is exempt from the notice requirements of paragraph (a) and this paragraph. In

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such cases, the corporation must give the named insured written notice of nonrenewal at least 45 days before the effective date of the nonrenewal.

- 6. Notwithstanding any other provision of law, an insurer may cancel or nonrenew a property insurance policy after at least 45 days' notice if the office finds that the early cancellation of some or all of the insurer's policies is necessary to protect the best interests of the public or policyholders and the office approves the insurer's plan for early cancellation or nonrenewal of some or all of its policies. The office may base such finding upon the financial condition of the insurer, lack of adequate reinsurance coverage for hurricane risk, or other relevant factors. The office may condition its finding on the consent of the insurer to be placed under administrative supervision pursuant to s. 624.81 or to the appointment of a receiver under chapter 631.
- 7. A policy covering both a home and a motor vehicle may be nonrenewed for any reason applicable to the property or motor vehicle insurance after providing 90 days' notice.

# Section 34. Subsection (2) of section 627.945, Florida Statutes, is amended to read:

- 627.945 Compulsory association.—
- (2) A risk retention group shall participate in this state's joint underwriting associations as established under ss. 627.311(3) and 627.351(1) through, (3), (4), and (5).

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Section 35. Subsection (4) of section 628.6017, Florida Statutes, is amended to read:

628.6017 Converting assessable mutual insurer.-

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(4) An assessable mutual insurer becoming a stock insurer or a nonassessable mutual insurer is not subject to s. 627.215 or  $\underline{s. 627.351(4)}$   $\underline{s. 627.351(5)}$  for 5 years following authorization of the conversion by the office. However, the converted stock insurer or nonassessable mutual insurer must file all necessary data required by s. 627.215. Such amounts otherwise subject to s. 627.215(8) must be maintained as surplus as to policyholders and are not available for dividends for 5 years.

Section 36. This act shall take effect July 1, 2025.

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