

1 A bill to be entitled
2 An act relating to Citizens Property Insurance
3 Corporation; amending s. 627.021, F.S.; revising
4 applicability; amending s. 627.351, F.S.; deleting
5 obsolete language; requiring the Office of Financial
6 Regulation to approve the method used by Citizens
7 Property Insurance Corporation for valuing the
8 dwelling replacement costs; revising the method for
9 determining the amounts of potential surcharges to be
10 levied against policyholders under certain
11 circumstances; defining the term "primary residence";
12 specifying requirements for certain members the
13 corporation's board of governors at the time of
14 appointment and reappointment; defining the term
15 "demonstrated expertise in insurance" to specify the
16 qualifications of some appointees for the board
17 membership; revising procedures for determining
18 eligibility of a risk for coverage by the corporation;
19 making technical changes; specifying the
20 qualifications for an appointee as the executive
21 director of the corporation; providing that eligible
22 surplus lines insurers may participate, in the same
23 manner and on the same terms as authorized insurers,
24 in depopulation, take-out, or keep-out programs
25 relating to policies removed from the corporation;

26 providing certain exceptions, conditions, and
27 requirements relating to such participation by surplus
28 lines insurers in the corporation's depopulation,
29 take-out, or keep-out programs; providing thresholds
30 for eligibility for coverage by the corporation for
31 risks that are offered coverage from qualified surplus
32 lines insurers; revising the circumstances under which
33 information from underwriting files and confidential
34 claims files may be released by the corporation;
35 revising the list of entities that such files may be
36 released to; specifying that only the corporation's
37 transfer of a policy file to an insurer, rather than
38 the transfer of any file, changes the file's public
39 record status; making technical changes; revising the
40 notice that must be provided by the corporation when
41 insurers request to take out a policy; amending s.
42 627.3517, F.S.; making technical changes; amending s.
43 627.3518, F.S.; deleting obsolete provisions relating
44 to the purpose of the corporation's clearinghouse
45 program and reporting requirements; revising
46 procedures for determining eligibility of a risk for
47 coverage with the corporation; providing an effective
48 date.

49
50 Be It Enacted by the Legislature of the State of Florida:

51
 52 Section 1. Subsection (2) of section 627.021, Florida
 53 Statutes, is amended to read:

54 627.021 Scope of this part.—

55 (2) This part does not apply to:

56 (a) Reinsurance, except joint reinsurance as provided in
 57 s. 627.311.

58 (b) Insurance against loss of or damage to aircraft, their
 59 hulls, accessories, or equipment, or against liability, other
 60 than workers' compensation and employer's liability, arising out
 61 of the ownership, maintenance, or use of aircraft.

62 (c) Insurance of vessels or craft, their cargoes, marine
 63 builders' risks, marine protection and indemnity, or other risks
 64 commonly insured under marine insurance policies.

65 (d) Commercial inland marine insurance.

66 (e) Except as may be specifically stated to apply, surplus
 67 lines insurance placed under ~~the provisions of~~ ss. 626.913-
 68 626.937.

69 Section 2. Paragraphs (a), (b), (c), (d), (n), (q), (x),
 70 and (ii) of subsection (6) of section 627.351, Florida Statutes,
 71 are amended to read:

72 627.351 Insurance risk apportionment plans.—

73 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

74 (a) The public purpose of this subsection is to ensure
 75 that there is an orderly market for property insurance for

76 residents and businesses of this state.

77 1. The Legislature finds that private insurers are
78 unwilling or unable to provide affordable property insurance
79 coverage in this state to the extent sought and needed. The
80 absence of affordable property insurance threatens the public
81 health, safety, and welfare and likewise threatens the economic
82 health of the state. The state therefore has a compelling public
83 interest and a public purpose to assist in assuring that
84 property in the state is insured and that it is insured at
85 affordable rates so as to facilitate the remediation,
86 reconstruction, and replacement of damaged or destroyed property
87 in order to reduce or avoid the negative effects otherwise
88 resulting to the public health, safety, and welfare, to the
89 economy of the state, and to the revenues of the state and local
90 governments which are needed to provide for the public welfare.
91 It is necessary, therefore, to provide affordable property
92 insurance to applicants who are in good faith entitled to
93 procure insurance through the voluntary market but are unable to
94 do so. The Legislature intends, therefore, that affordable
95 property insurance be provided and that it continue to be
96 provided, as long as necessary, through Citizens Property
97 Insurance Corporation, a government entity that is an integral
98 part of the state, and that is not a private insurance company.
99 To that end, the corporation shall strive to increase the
100 availability of affordable property insurance in this state,

101 while achieving efficiencies and economies, and while providing
102 service to policyholders, applicants, and agents which is no
103 less than the quality generally provided in the voluntary
104 market, for the achievement of the foregoing public purposes.
105 Because it is essential for this government entity to have the
106 maximum financial resources to pay claims following a
107 catastrophic hurricane, it is the intent of the Legislature that
108 the corporation continue to be an integral part of the state and
109 that the income of the corporation be exempt from federal income
110 taxation and that interest on the debt obligations issued by the
111 corporation be exempt from federal income taxation.

112 2. The Residential Property and Casualty Joint
113 Underwriting Association originally created by this statute
114 shall be known as the Citizens Property Insurance Corporation.
115 The corporation shall provide insurance for residential and
116 commercial property, for applicants who are entitled, but, in
117 good faith, are unable to procure insurance through the
118 voluntary market. The corporation shall operate pursuant to a
119 plan of operation approved by order of the Financial Services
120 Commission. The plan is subject to continuous review by the
121 commission. The commission may, by order, withdraw approval of
122 all or part of a plan if the commission determines that
123 conditions have changed since approval was granted and that the
124 purposes of the plan require changes in the plan. For the
125 purposes of this subsection, residential coverage includes both

126 personal lines residential coverage, which consists of the type
127 of coverage provided by homeowner, mobile home owner, dwelling,
128 tenant, condominium unit owner, and similar policies; and
129 commercial lines residential coverage, which consists of the
130 type of coverage provided by condominium association, apartment
131 building, and similar policies.

132 3. With respect to coverage for personal lines residential
133 structures, ÷

134 ~~a. Effective January 1, 2014, a structure that has a~~
135 ~~dwelling replacement cost of \$1 million or more, or a single~~
136 ~~condominium unit that has a combined dwelling and contents~~
137 ~~replacement cost of \$1 million or more, is not eligible for~~
138 ~~coverage by the corporation. Such dwellings insured by the~~
139 ~~corporation on December 31, 2013, may continue to be covered by~~
140 ~~the corporation until the end of the policy term. The office~~
141 ~~shall approve the method used by the corporation for valuing the~~
142 ~~dwelling replacement cost for the purposes of this subparagraph.~~
143 ~~If a policyholder is insured by the corporation before being~~
144 ~~determined to be ineligible pursuant to this subparagraph and~~
145 ~~such policyholder files a lawsuit challenging the determination,~~
146 ~~the policyholder may remain insured by the corporation until the~~
147 ~~conclusion of the litigation.~~

148 ~~b. Effective January 1, 2015, a structure that has a~~
149 ~~dwelling replacement cost of \$900,000 or more, or a single~~
150 ~~condominium unit that has a combined dwelling and contents~~

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151 ~~replacement cost of \$900,000 or more, is not eligible for~~
152 ~~coverage by the corporation. Such dwellings insured by the~~
153 ~~corporation on December 31, 2014, may continue to be covered by~~
154 ~~the corporation only until the end of the policy term.~~

155 ~~e. Effective January 1, 2016, a structure that has a~~
156 ~~dwelling replacement cost of \$800,000 or more, or a single~~
157 ~~condominium unit that has a combined dwelling and contents~~
158 ~~replacement cost of \$800,000 or more, is not eligible for~~
159 ~~coverage by the corporation. Such dwellings insured by the~~
160 ~~corporation on December 31, 2015, may continue to be covered by~~
161 ~~the corporation until the end of the policy term.~~

162 ~~d. effective January 1, 2017, a structure that has a~~
163 ~~dwelling replacement cost of \$700,000 or more, or a single~~
164 ~~condominium unit that has a combined dwelling and contents~~
165 ~~replacement cost of \$700,000 or more, is not eligible for~~
166 ~~coverage by the corporation. The office shall approve the method~~
167 ~~used by the corporation for valuing the dwelling replacement~~
168 ~~cost Such dwellings insured by the corporation on December 31,~~
169 ~~2016, may continue to be covered by the corporation until the~~
170 ~~end of the policy term.~~

171
172 The requirements of this subparagraph ~~sub-subparagraphs b.-d.~~ do
173 not apply in counties where the office determines there is not a
174 reasonable degree of competition. In such counties a personal
175 lines residential structure that has a dwelling replacement cost

176 of less than \$1 million, or a single condominium unit that has a
177 combined dwelling and contents replacement cost of less than \$1
178 million, is eligible for coverage by the corporation.

179 4. It is the intent of the Legislature that policyholders,
180 applicants, and agents of the corporation receive service and
181 treatment of the highest possible level but never less than that
182 generally provided in the voluntary market. It is also intended
183 that the corporation be held to service standards no less than
184 those applied to insurers in the voluntary market by the office
185 with respect to responsiveness, timeliness, customer courtesy,
186 and overall dealings with policyholders, applicants, or agents
187 of the corporation.

188 5.a. Effective January 1, 2009, a personal lines
189 residential structure that is located in the "wind-borne debris
190 region," as defined in s. 1609.2, International Building Code
191 (2006), and that has an insured value on the structure of
192 \$750,000 or more is not eligible for coverage by the corporation
193 unless the structure has opening protections as required under
194 the Florida Building Code for a newly constructed residential
195 structure in that area. A residential structure is deemed to
196 comply with this sub-subparagraph if it has shutters or opening
197 protections on all openings and if such opening protections
198 complied with the Florida Building Code at the time they were
199 installed.

200 b. Any major structure, as defined in s. 161.54(6)(a),

201 that is newly constructed, or rebuilt, repaired, restored, or
 202 remodeled to increase the total square footage of finished area
 203 by more than 25 percent, pursuant to a permit applied for after
 204 July 1, 2015, is not eligible for coverage by the corporation if
 205 the structure is seaward of the coastal construction control
 206 line established pursuant to s. 161.053 or is within the Coastal
 207 Barrier Resources System as designated by 16 U.S.C. ss. 3501-
 208 3510.

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

214 (b)1. All insurers authorized to write one or more subject
 215 lines of business in this state are subject to assessment by the
 216 corporation and, for the purposes of this subsection, are
 217 referred to collectively as "assessable insurers." Insurers
 218 writing one or more subject lines of business in this state
 219 pursuant to part VIII of chapter 626 are not assessable
 220 insurers; however, insureds who procure one or more subject
 221 lines of business in this state pursuant to part VIII of chapter
 222 626 are subject to assessment by the corporation and are
 223 referred to collectively as "assessable insureds." An insurer's
 224 assessment liability begins on the first day of the calendar
 225 year following the year in which the insurer was issued a

226 certificate of authority to transact insurance for subject lines
 227 of business in this state and terminates 1 year after the end of
 228 the first calendar year during which the insurer no longer holds
 229 a certificate of authority to transact insurance for subject
 230 lines of business in this state.

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

234 (I) A personal lines account for personal residential
 235 policies issued by the corporation which provides comprehensive,
 236 multiperil coverage on risks that are not located in areas
 237 eligible for coverage by the Florida Windstorm Underwriting
 238 Association as those areas were defined on January 1, 2002, and
 239 for policies that do not provide coverage for the peril of wind
 240 on risks that are located in such areas;

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

249 (III) A coastal account for personal residential policies
 250 and commercial residential and commercial nonresidential

251 property policies issued by the corporation which provides
252 coverage for the peril of wind on risks that are located in
253 areas eligible for coverage by the Florida Windstorm
254 Underwriting Association as those areas were defined on January
255 1, 2002. The corporation may offer policies that provide
256 multiperil coverage and shall offer policies that provide
257 coverage only for the peril of wind for risks located in areas
258 eligible for coverage in the coastal account. Effective July 1,
259 2014, the corporation shall cease offering new commercial
260 residential policies providing multiperil coverage and shall
261 instead continue to offer commercial residential wind-only
262 policies, and may offer commercial residential policies
263 excluding wind. The corporation may, however, continue to renew
264 a commercial residential multiperil policy on a building that is
265 insured by the corporation on June 30, 2014, under a multiperil
266 policy. In issuing multiperil coverage, the corporation may use
267 its approved policy forms and rates for the personal lines
268 account. An applicant or insured who is eligible to purchase a
269 multiperil policy from the corporation may purchase a multiperil
270 policy from an authorized insurer without prejudice to the
271 applicant's or insured's eligibility to prospectively purchase a
272 policy that provides coverage only for the peril of wind from
273 the corporation. An applicant or insured who is eligible for a
274 corporation policy that provides coverage only for the peril of
275 wind may elect to purchase or retain such policy and also

276 purchase or retain coverage excluding wind from an authorized
277 insurer without prejudice to the applicant's or insured's
278 eligibility to prospectively purchase a policy that provides
279 multiperil coverage from the corporation. It is the goal of the
280 Legislature that there be an overall average savings of 10
281 percent or more for a policyholder who currently has a wind-only
282 policy with the corporation, and an ex-wind policy with a
283 voluntary insurer or the corporation, and who obtains a
284 multiperil policy from the corporation. It is the intent of the
285 Legislature that the offer of multiperil coverage in the coastal
286 account be made and implemented in a manner that does not
287 adversely affect the tax-exempt status of the corporation or
288 creditworthiness of or security for currently outstanding
289 financing obligations or credit facilities of the coastal
290 account, the personal lines account, or the commercial lines
291 account. The coastal account must also include quota share
292 primary insurance under subparagraph (c)2. The area eligible for
293 coverage under the coastal account also includes the area within
294 Port Canaveral, which is bordered on the south by the City of
295 Cape Canaveral, bordered on the west by the Banana River, and
296 bordered on the north by Federal Government property.

297 b. The three separate accounts must be maintained as long
298 as financing obligations entered into by the Florida Windstorm
299 Underwriting Association or Residential Property and Casualty
300 Joint Underwriting Association are outstanding, in accordance

301 with the terms of the corresponding financing documents. If the
302 financing obligations are no longer outstanding, the corporation
303 may use a single account for all revenues, assets, liabilities,
304 losses, and expenses of the corporation. Consistent with this
305 subparagraph and prudent investment policies that minimize the
306 cost of carrying debt, the board shall exercise its best efforts
307 to retire existing debt or obtain the approval of necessary
308 parties to amend the terms of existing debt, so as to structure
309 the most efficient plan for consolidating the three separate
310 accounts into a single account.

311 c. Creditors of the Residential Property and Casualty
312 Joint Underwriting Association and the accounts specified in
313 sub-sub-subparagraphs a.(I) and (II) may have a claim against,
314 and recourse to, those accounts and no claim against, or
315 recourse to, the account referred to in sub-sub-subparagraph
316 a.(III). Creditors of the Florida Windstorm Underwriting
317 Association have a claim against, and recourse to, the account
318 referred to in sub-sub-subparagraph a.(III) and no claim
319 against, or recourse to, the accounts referred to in sub-sub-
320 subparagraphs a.(I) and (II).

321 d. Revenues, assets, liabilities, losses, and expenses not
322 attributable to particular accounts shall be prorated among the
323 accounts.

324 e. The Legislature finds that the revenues of the
325 corporation are revenues that are necessary to meet the

326 requirements set forth in documents authorizing the issuance of
 327 bonds under this subsection.

328 f. The income of the corporation may not inure to the
 329 benefit of any private person.

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

331 a. After accounting for the Citizens policyholder
 332 surcharge imposed under sub-subparagraph i., if the remaining
 333 projected deficit incurred in the coastal account in a
 334 particular calendar year:

335 (I) Is not greater than 2 percent of the aggregate
 336 statewide direct written premium for the subject lines of
 337 business for the prior calendar year, the entire deficit shall
 338 be recovered through regular assessments of assessable insurers
 339 under paragraph (q) and assessable insureds.

340 (II) Exceeds 2 percent of the aggregate statewide direct
 341 written premium for the subject lines of business for the prior
 342 calendar year, the corporation shall levy regular assessments on
 343 assessable insurers under paragraph (q) and on assessable
 344 insureds in an amount equal to the greater of 2 percent of the
 345 projected deficit or 2 percent of the aggregate statewide direct
 346 written premium for the subject lines of business for the prior
 347 calendar year. Any remaining projected deficit shall be
 348 recovered through emergency assessments under sub-subparagraph
 349 d.

350 b. Each assessable insurer's share of the amount being

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351 assessed under sub-subparagraph a. must be in the proportion
352 that the assessable insurer's direct written premium for the
353 subject lines of business for the year preceding the assessment
354 bears to the aggregate statewide direct written premium for the
355 subject lines of business for that year. The assessment
356 percentage applicable to each assessable insured is the ratio of
357 the amount being assessed under sub-subparagraph a. to the
358 aggregate statewide direct written premium for the subject lines
359 of business for the prior year. Assessments levied by the
360 corporation on assessable insurers under sub-subparagraph a.
361 must be paid as required by the corporation's plan of operation
362 and paragraph (q). Assessments levied by the corporation on
363 assessable insureds under sub-subparagraph a. shall be collected
364 by the surplus lines agent at the time the surplus lines agent
365 collects the surplus lines tax required by s. 626.932, and paid
366 to the Florida Surplus Lines Service Office at the time the
367 surplus lines agent pays the surplus lines tax to that office.
368 Upon receipt of regular assessments from surplus lines agents,
369 the Florida Surplus Lines Service Office shall transfer the
370 assessments directly to the corporation as determined by the
371 corporation.

372 c. After accounting for the Citizens policyholder
373 surcharge imposed under sub-subparagraph i., the remaining
374 projected deficits in the personal lines account and in the
375 commercial lines account in a particular calendar year shall be

376 recovered through emergency assessments under sub-subparagraph
377 d.

378 d. Upon a determination by the board of governors that a
379 projected deficit in an account exceeds the amount that is
380 expected to be recovered through regular assessments under sub-
381 subparagraph a., plus the amount that is expected to be
382 recovered through surcharges under sub-subparagraph i., the
383 board, after verification by the office, shall levy emergency
384 assessments for as many years as necessary to cover the
385 deficits, to be collected by assessable insurers and the
386 corporation and collected from assessable insureds upon issuance
387 or renewal of policies for subject lines of business, excluding
388 National Flood Insurance policies. The amount collected in a
389 particular year must be a uniform percentage of that year's
390 direct written premium for subject lines of business and all
391 accounts of the corporation, excluding National Flood Insurance
392 Program policy premiums, as annually determined by the board and
393 verified by the office. The office shall verify the arithmetic
394 calculations involved in the board's determination within 30
395 days after receipt of the information on which the determination
396 was based. The office shall notify assessable insurers and the
397 Florida Surplus Lines Service Office of the date on which
398 assessable insurers shall begin to collect and assessable
399 insureds shall begin to pay such assessment. The date must be at
400 least 90 days after the date the corporation levies emergency

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

424 e. The corporation may pledge the proceeds of assessments,
425 projected recoveries from the Florida Hurricane Catastrophe

426 Fund, other insurance and reinsurance recoverables, policyholder
427 surcharges and other surcharges, and other funds available to
428 the corporation as the source of revenue for and to secure bonds
429 issued under paragraph (q), bonds or other indebtedness issued
430 under subparagraph (c)3., or lines of credit or other financing
431 mechanisms issued or created under this subsection, or to retire
432 any other debt incurred as a result of deficits or events giving
433 rise to deficits, or in any other way that the board determines
434 will efficiently recover such deficits. The purpose of the lines
435 of credit or other financing mechanisms is to provide additional
436 resources to assist the corporation in covering claims and
437 expenses attributable to a catastrophe. As used in this
438 subsection, the term "assessments" includes regular assessments
439 under sub-subparagraph a. or subparagraph (q)1. and emergency
440 assessments under sub-subparagraph d. Emergency assessments
441 collected under sub-subparagraph d. are not part of an insurer's
442 rates, are not premium, and are not subject to premium tax,
443 fees, or commissions; however, failure to pay the emergency
444 assessment shall be treated as failure to pay premium. The
445 emergency assessments shall continue as long as any bonds issued
446 or other indebtedness incurred with respect to a deficit for
447 which the assessment was imposed remain outstanding, unless
448 adequate provision has been made for the payment of such bonds
449 or other indebtedness pursuant to the documents governing such
450 bonds or indebtedness.

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

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

474 h. The Florida Surplus Lines Service Office shall verify
 475 the proper application by surplus lines agents of assessment

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476 percentages for regular assessments and emergency assessments
477 levied under this subparagraph on assessable insureds and assist
478 the corporation in ensuring the accurate, timely collection and
479 payment of assessments by surplus lines agents as required by
480 the corporation.

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

485 (I) The surcharge must ~~shall~~ be levied as a uniform
486 percentage of the premium for the policy ~~of up to 15 percent of~~
487 ~~such premium, and must~~ which funds shall be used to offset the
488 deficit, as follows:

489 (A) If the total number of policyholders of the
490 corporation is less than 1 million, a surcharge of 15 percent of
491 the premium.

492 (B) If the total number of policyholders of the
493 corporation is at least 1 million but less than 1.5 million, a
494 surcharge of 20 percent of the premium.

495 (C) If the total number of policyholders of the
496 corporation is at least 1.5 million, a surcharge of 25 percent
497 of the premium.

498 (II) The surcharge is payable upon cancellation or
499 termination of the policy, upon renewal of the policy, or upon
500 issuance of a new policy by the corporation within the first 12

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501 months after the date of the levy or the period of time
502 necessary to fully collect the surcharge amount.

503 (III) The corporation may not levy any regular assessments
504 under paragraph (q) pursuant to sub-subparagraph a. or sub-
505 subparagraph b. with respect to a particular year's deficit
506 until the corporation has first levied the full amount of the
507 surcharge authorized by this sub-subparagraph.

508 (IV) The surcharge is not considered premium and is not
509 subject to commissions, fees, or premium taxes. However, failure
510 to pay the surcharge shall be treated as failure to pay premium.

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

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

521 1. Must provide for adoption of residential property and
522 casualty insurance policy forms and commercial residential and
523 nonresidential property insurance forms, which must be approved
524 by the office before use. The corporation shall adopt the
525 following policy forms:

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

530 b. Basic personal lines policy forms that are policies
531 similar to an HO-8 policy or a dwelling fire policy that provide
532 coverage meeting the requirements of the secondary mortgage
533 market, but which is more limited than the coverage under a
534 standard policy.

535 c. Commercial lines residential and nonresidential policy
536 forms that are generally similar to the basic perils of full
537 coverage obtainable for commercial residential structures and
538 commercial nonresidential structures in the admitted voluntary
539 market.

540 d. Personal lines and commercial lines residential
541 property insurance forms that cover the peril of wind only. The
542 forms are applicable only to residential properties located in
543 areas eligible for coverage under the coastal account referred
544 to in sub-subparagraph (b)2.a.

545 e. Commercial lines nonresidential property insurance
546 forms that cover the peril of wind only. The forms are
547 applicable only to nonresidential properties located in areas
548 eligible for coverage under the coastal account referred to in
549 sub-subparagraph (b)2.a.

550 f. The corporation may adopt variations of the policy

551 forms listed in sub-subparagraphs a.-e. which contain more
552 restrictive coverage.

553 g. Effective January 1, 2013, the corporation shall offer
554 a basic personal lines policy similar to an HO-8 policy with
555 dwelling repair based on common construction materials and
556 methods.

557 2. Must provide that the corporation adopt a program in
558 which the corporation and authorized insurers enter into quota
559 share primary insurance agreements for hurricane coverage, as
560 defined in s. 627.4025(2)(a), for eligible risks, and adopt
561 property insurance forms for eligible risks which cover the
562 peril of wind only.

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

564 (II) "Primary residence" means the residential dwelling
565 that the insured has represented as homestead on an insurance
566 application or otherwise to the corporation which is owned by a
567 citizen of the United States or a lawful permanent resident.

568 (III) ~~(I)~~ "Quota share primary insurance" means an
569 arrangement in which the primary hurricane coverage of an
570 eligible risk is provided in specified percentages by the
571 corporation and an authorized insurer. The corporation and
572 authorized insurer are each solely responsible for a specified
573 percentage of hurricane coverage of an eligible risk as set
574 forth in a quota share primary insurance agreement between the
575 corporation and an authorized insurer and the insurance

576 contract. The responsibility of the corporation or authorized
577 insurer to pay its specified percentage of hurricane losses of
578 an eligible risk, as set forth in the agreement, may not be
579 altered by the inability of the other party to pay its specified
580 percentage of losses. Eligible risks that are provided hurricane
581 coverage through a quota share primary insurance arrangement
582 must be provided policy forms that set forth the obligations of
583 the corporation and authorized insurer under the arrangement,
584 clearly specify the percentages of quota share primary insurance
585 provided by the corporation and authorized insurer, and
586 conspicuously and clearly state that the authorized insurer and
587 the corporation may not be held responsible beyond their
588 specified percentage of coverage of hurricane losses.

589 (I)~~(II)~~ "Eligible risks" means personal lines residential
590 and commercial lines residential risks that meet the
591 underwriting criteria of the corporation and are located in
592 areas that were eligible for coverage by the Florida Windstorm
593 Underwriting Association on January 1, 2002.

594 b. The corporation may enter into quota share primary
595 insurance agreements with authorized insurers at corporation
596 coverage levels of 90 percent and 50 percent.

597 c. If the corporation determines that additional coverage
598 levels are necessary to maximize participation in quota share
599 primary insurance agreements by authorized insurers, the
600 corporation may establish additional coverage levels. However,

601 the corporation's quota share primary insurance coverage level
602 may not exceed 90 percent.

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

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

615 f. For all eligible risks covered under quota share
616 primary insurance agreements, the exposure and coverage levels
617 for both the corporation and authorized insurers shall be
618 reported by the corporation to the Florida Hurricane Catastrophe
619 Fund. For all policies of eligible risks covered under such
620 agreements, the corporation and the authorized insurer must
621 maintain complete and accurate records for the purpose of
622 exposure and loss reimbursement audits as required by fund
623 rules. The corporation and the authorized insurer shall each
624 maintain duplicate copies of policy declaration pages and
625 supporting claims documents.

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

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

645 3. May provide that the corporation may employ or
646 otherwise contract with individuals or other entities to provide
647 administrative or professional services that may be appropriate
648 to effectuate the plan. The corporation may borrow funds by
649 issuing bonds or by incurring other indebtedness, and shall have
650 other powers reasonably necessary to effectuate the requirements

651 of this subsection, including, without limitation, the power to
652 issue bonds and incur other indebtedness in order to refinance
653 outstanding bonds or other indebtedness. The corporation may
654 seek judicial validation of its bonds or other indebtedness
655 under chapter 75. The corporation may issue bonds or incur other
656 indebtedness, or have bonds issued on its behalf by a unit of
657 local government pursuant to subparagraph (q)2. in the absence
658 of a hurricane or other weather-related event, upon a
659 determination by the corporation, subject to approval by the
660 office, that such action would enable it to efficiently meet the
661 financial obligations of the corporation and that such
662 financings are reasonably necessary to effectuate the
663 requirements of this subsection. The corporation may take all
664 actions needed to facilitate tax-free status for such bonds or
665 indebtedness, including formation of trusts or other affiliated
666 entities. The corporation may pledge assessments, projected
667 recoveries from the Florida Hurricane Catastrophe Fund, other
668 reinsurance recoverables, policyholder surcharges and other
669 surcharges, and other funds available to the corporation as
670 security for bonds or other indebtedness. In recognition of s.
671 10, Art. I of the State Constitution, prohibiting the impairment
672 of obligations of contracts, it is the intent of the Legislature
673 that no action be taken whose purpose is to impair any bond
674 indenture or financing agreement or any revenue source committed
675 by contract to such bond or other indebtedness.

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676 4. Must require that the corporation operate subject to
677 the supervision and approval of a board of governors consisting
678 of nine individuals who are residents of this state and who are
679 from different geographical areas of this ~~the~~ state, one of whom
680 is appointed by the Governor and serves solely to advocate on
681 behalf of the consumer. The appointment of a consumer
682 representative by the Governor is deemed to be within the scope
683 of the exemption provided in s. 112.313(7) (b) and is in addition
684 to the appointments authorized under sub-subparagraph a.

685 a. The Governor, the Chief Financial Officer, the
686 President of the Senate, and the Speaker of the House of
687 Representatives shall each appoint two members of the board. At
688 least one of the two members appointed by each appointing
689 officer must have demonstrated expertise in insurance and be
690 deemed to be within the scope of the exemption provided in s.
691 112.313(7) (b) at the time of appointment or reappointment. The
692 Chief Financial Officer shall designate one of the appointees as
693 chair. All board members serve at the pleasure of the appointing
694 officer. All members of the board are subject to removal at will
695 by the officers who appointed them. All board members, including
696 the chair, must be appointed to serve for 3-year terms beginning
697 annually on a date designated by the plan. However, for the
698 first term beginning on or after July 1, 2009, each appointing
699 officer shall appoint one member of the board for a 2-year term
700 and one member for a 3-year term. A board vacancy shall be

701 filled for the unexpired term by the appointing officer. The
702 Chief Financial Officer shall appoint a technical advisory group
703 to provide information and advice to the board in connection
704 with the board's duties under this subsection. The executive
705 director and senior managers of the corporation shall be engaged
706 by the board and serve at the pleasure of the board. Any
707 executive director appointed on or after July 1, 2006, is
708 subject to confirmation by the Senate. The executive director is
709 responsible for employing other staff as the corporation may
710 require, subject to review and concurrence by the board. As used
711 in this sub-subparagraph, the term "demonstrated expertise in
712 insurance" means at least 10 years of responsible experience:

713 (I) In property and casualty insurance as a full-time
714 employee, an officer or owner of a licensed insurance agency, or
715 an insurer writing residential property coverage; or

716 (II) As an insurance regulator or an executive or officer
717 of an insurance trade association.

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

723 (I) The members of the advisory committee consist of the
724 following 11 persons, one of whom must be elected chair by the
725 members of the committee: four representatives, one appointed by

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

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

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

747 a. Subject to s. 627.3517, with respect to personal lines
748 residential risks, if the risk is offered coverage from an
749 authorized insurer at the insurer's approved rate under a
750 standard policy including wind coverage or, if consistent with

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751 the insurer's underwriting rules as filed with the office, a
752 basic policy including wind coverage, for a new application to
753 the corporation for coverage, the risk is not eligible for any
754 policy issued by the corporation unless the premium for coverage
755 from the authorized insurer is more than 20 percent greater than
756 the premium for comparable coverage from the corporation.
757 Whenever an offer of coverage for a personal lines residential
758 risk is received for a policyholder of the corporation at
759 renewal from an authorized insurer, ~~if the offer is equal to or~~
760 ~~less than the corporation's renewal premium for comparable~~
761 ~~coverage,~~ the risk is not eligible for coverage with the
762 corporation unless the premium for coverage from the authorized
763 insurer is more than 20 percent greater than the renewal premium
764 for comparable coverage from the corporation. If the risk is not
765 able to obtain such offer, the risk is eligible for a standard
766 policy including wind coverage or a basic policy including wind
767 coverage issued by the corporation; however, if the risk could
768 not be insured under a standard policy including wind coverage
769 regardless of market conditions, the risk is eligible for a
770 basic policy including wind coverage unless rejected under
771 subparagraph 8. ~~However, a policyholder removed from the~~
772 ~~corporation through an assumption agreement remains eligible for~~
773 ~~coverage from the corporation until the end of the assumption~~
774 ~~period.~~ The corporation shall determine the type of policy to be
775 provided on the basis of objective standards specified in the

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776 | underwriting manual and based on generally accepted underwriting
777 | practices. A policyholder removed from the corporation through
778 | an assumption agreement does not remain eligible for coverage
779 | from the corporation.

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

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

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

798 |
799 | If the producing agent is unwilling or unable to accept
800 | appointment, the new insurer shall pay the agent in accordance

801 with sub-sub-sub-subparagraph (A).

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

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

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

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

819 b. With respect to commercial lines residential risks, for
 820 a new application to the corporation for coverage, if the risk
 821 is offered coverage under a policy including wind coverage from
 822 an authorized insurer at its approved rate, the risk is not
 823 eligible for a policy issued by the corporation unless the
 824 premium for coverage from the authorized insurer is more than 20
 825 ~~15~~ percent greater than the premium for comparable coverage from

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826 the corporation. Whenever an offer of coverage for a commercial
827 lines residential risk is received for a policyholder of the
828 corporation at renewal from an authorized insurer, ~~if the offer~~
829 ~~is equal to or less than the corporation's renewal premium for~~
830 ~~comparable coverage,~~ the risk is not eligible for coverage with
831 the corporation unless the premium for coverage from the
832 authorized insurer is more than 20 percent greater than the
833 renewal premium for comparable coverage from the corporation. If
834 the risk is not able to obtain any such offer, the risk is
835 eligible for a policy including wind coverage issued by the
836 corporation. ~~However,~~ A policyholder removed from the
837 corporation through an assumption agreement does not remain
838 ~~remains~~ eligible for coverage from the corporation ~~until the end~~
839 ~~of the assumption period.~~

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

848 (A) Pay to the producing agent of record of the policy,
849 for the first year, an amount that is the greater of the
850 insurer's usual and customary commission for the type of policy

851 written or a fee equal to the usual and customary commission of
 852 the corporation; or

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

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

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

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

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

875

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

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

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901 premium for the corporation's wind-only policy plus the premium
902 for the ex-wind policy that is offered by an authorized insurer
903 to the applicant must be compared to the premium for multiperil
904 coverage offered by an authorized insurer, subject to the
905 standards for comparison specified in this subparagraph. If the
906 corporation or the applicant requests from the authorized
907 insurer a breakdown of the premium of the offer by types of
908 coverage so that a comparison may be made by the corporation or
909 its agent and the authorized insurer refuses or is unable to
910 provide such information, the corporation may treat the offer as
911 not being an offer of coverage from an authorized insurer at the
912 insurer's approved rate.

913 6. Must include rules for classifications of risks and
914 rates.

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

923 8. Must provide objective criteria and procedures to be
924 uniformly applied to all applicants in determining whether an
925 individual risk is so hazardous as to be uninsurable. In making

926 | this determination and in establishing the criteria and
927 | procedures, the following must be considered:

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

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

933 |

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

937 | 9. Must provide that the corporation make its best efforts
938 | to procure catastrophe reinsurance at reasonable rates, to cover
939 | its projected 100-year probable maximum loss as determined by
940 | the board of governors. If catastrophe reinsurance is not
941 | available at reasonable rates, the corporation need not purchase
942 | it, but the corporation shall include the costs of reinsurance
943 | to cover its projected 100-year probable maximum loss in its
944 | rate calculations even if it does not purchase catastrophe
945 | reinsurance.

946 | 10. ~~The policies issued by the corporation~~ Must provide
947 | that if the corporation or the market assistance plan obtains an
948 | offer from an authorized insurer to cover the risk at its
949 | approved rates, the risk is no longer eligible for renewal
950 | through the corporation, except as otherwise provided in this

951 subsection.

952 11. ~~Corporation policies and applications~~ Must include a
 953 notice that the corporation policy could, under this section, be
 954 replaced with a policy issued by an authorized insurer which
 955 does not provide coverage identical to the coverage provided by
 956 the corporation. The notice must also specify that acceptance of
 957 corporation coverage creates a conclusive presumption that the
 958 applicant or policyholder is aware of this potential.

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

973 13. Must provide that, with respect to the coastal
 974 account, any assessable insurer with a surplus as to
 975 policyholders of \$25 million or less writing 25 percent or more

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976 of its total countrywide property insurance premiums in this
977 state may petition the office, within the first 90 days of each
978 calendar year, to qualify as a limited apportionment company. A
979 regular assessment levied by the corporation on a limited
980 apportionment company for a deficit incurred by the corporation
981 for the coastal account may be paid to the corporation on a
982 monthly basis as the assessments are collected by the limited
983 apportionment company from its insureds, but a limited
984 apportionment company must begin collecting the regular
985 assessments not later than 90 days after the regular assessments
986 are levied by the corporation, and the regular assessments must
987 be paid in full within 15 months after being levied by the
988 corporation. A limited apportionment company shall collect from
989 its policyholders any emergency assessment imposed under sub-
990 subparagraph (b)3.d. The plan must provide that, if the office
991 determines that any regular assessment will result in an
992 impairment of the surplus of a limited apportionment company,
993 the office may direct that all or part of such assessment be
994 deferred as provided in subparagraph (q)4. However, an emergency
995 assessment to be collected from policyholders under sub-
996 subparagraph (b)3.d. may not be limited or deferred.

997 14. Must provide that the corporation appoint as its
998 licensed agents only those agents who throughout such
999 appointments also hold an appointment as defined in s. 626.015
1000 by an insurer who is authorized to write and is actually writing

1001 or renewing personal lines residential property coverage,
 1002 commercial residential property coverage, or commercial
 1003 nonresidential property coverage within this ~~the~~ state.

1004 15. Must provide a premium payment plan option to its
 1005 policyholders which, at a minimum, allows for quarterly and
 1006 semiannual payment of premiums. A monthly payment plan may, but
 1007 is not required to, be offered.

1008 16. Must limit coverage on mobile homes or manufactured
 1009 homes built before 1994 to actual cash value of the dwelling
 1010 rather than replacement costs of the dwelling.

1011 17. Must provide coverage for manufactured or mobile home
 1012 dwellings. Such coverage must also include the following
 1013 attached structures:

1014 a. Screened enclosures that are aluminum framed or
 1015 screened enclosures that are not covered by the same or
 1016 substantially the same materials as those of the primary
 1017 dwelling;

1018 b. Carports that are aluminum or carports that are not
 1019 covered by the same or substantially the same materials as those
 1020 of the primary dwelling; and

1021 c. Patios that have a roof covering that is constructed of
 1022 materials that are not the same or substantially the same
 1023 materials as those of the primary dwelling.

1024
 1025 The corporation shall make available a policy for mobile homes

1026 or manufactured homes for a minimum insured value of at least
 1027 \$3,000.

1028 18. May provide such limits of coverage as the board
 1029 determines, consistent with the requirements of this subsection.

1030 19. May require commercial property to meet specified
 1031 hurricane mitigation construction features as a condition of
 1032 eligibility for coverage.

1033 20. Must provide that new or renewal policies issued by
 1034 the corporation on or after January 1, 2012, which cover
 1035 sinkhole loss do not include coverage for any loss to
 1036 appurtenant structures, driveways, sidewalks, decks, or patios
 1037 that are directly or indirectly caused by sinkhole activity. The
 1038 corporation shall exclude such coverage using a notice of
 1039 coverage change, which may be included with the policy renewal,
 1040 and not by issuance of a notice of nonrenewal of the excluded
 1041 coverage upon renewal of the current policy.

1042 21. As of January 1, 2012, must require that the agent
 1043 obtain from an applicant for coverage from the corporation an
 1044 acknowledgment signed by the applicant, which includes, at a
 1045 minimum, the following statement:

1046 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE

1047 AND ASSESSMENT LIABILITY:

1048 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
 1049 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
 1050 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,

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1051 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
1052 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE
1053 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT
1054 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
1055 LEGISLATURE.

1056 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER
1057 SURCHARGE, WHICH COULD BE AS HIGH AS 45 PERCENT OF MY PREMIUM,
1058 BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO
1059 BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN
1060 PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE
1061 WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES
1062 ARE REGULATED AND APPROVED BY THE STATE.

1063 3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
1064 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
1065 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
1066 FLORIDA LEGISLATURE.

1067 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
1068 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
1069 STATE OF FLORIDA.

1070 a. The corporation shall maintain, in electronic format or
1071 otherwise, a copy of the applicant's signed acknowledgment and
1072 provide a copy of the statement to the policyholder as part of
1073 the first renewal after the effective date of this subparagraph.

1074 b. The signed acknowledgment form creates a conclusive
1075 presumption that the policyholder understood and accepted his or

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1076 her potential surcharge and assessment liability as a
1077 policyholder of the corporation.

1078 (d)1. All prospective employees for senior management
1079 positions, as defined by the plan of operation, are subject to
1080 background checks as a prerequisite for employment. The office
1081 shall conduct the background checks pursuant to ss. 624.34,
1082 624.404(3), and 628.261.

1083 2. On or before July 1 of each year, employees of the
1084 corporation must sign and submit a statement attesting that they
1085 do not have a conflict of interest, as defined in part III of
1086 chapter 112. As a condition of employment, all prospective
1087 employees must sign and submit to the corporation a conflict-of-
1088 interest statement.

1089 3. The executive director, senior managers, and members of
1090 the board of governors are subject to part III of chapter 112,
1091 including, but not limited to, the code of ethics and public
1092 disclosure and reporting of financial interests, pursuant to s.
1093 112.3145. For purposes of applying part III of chapter 112 to
1094 activities of the executive director, senior managers, and
1095 members of the board of governors, those persons shall be
1096 considered public officers or employees and the corporation
1097 shall be considered their agency. Notwithstanding s.
1098 112.3143(2), a board member may not vote on any measure that
1099 would inure to his or her special private gain or loss; that he
1100 or she knows would inure to the special private gain or loss of

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1101 any principal by whom he or she is retained or to the parent
1102 organization or subsidiary of a corporate principal by which he
1103 or she is retained, other than an agency as defined in s.
1104 112.312; or that he or she knows would inure to the special
1105 private gain or loss of a relative or business associate of the
1106 public officer. Before the vote is taken, such member shall
1107 publicly state to the assembly the nature of his or her interest
1108 in the matter from which he or she is abstaining from voting
1109 and, within 15 days after the vote occurs, disclose the nature
1110 of his or her interest as a public record in a memorandum filed
1111 with the person responsible for recording the minutes of the
1112 meeting, who shall incorporate the memorandum in the minutes.
1113 Senior managers and board members are also required to file such
1114 disclosures with the Commission on Ethics and the Office of
1115 Insurance Regulation. The executive director of the corporation
1116 or his or her designee shall notify each existing and newly
1117 appointed member of the board of governors and senior managers
1118 of their duty to comply with the reporting requirements of part
1119 III of chapter 112. At least quarterly, the executive director
1120 or his or her designee shall submit to the Commission on Ethics
1121 a list of names of the senior managers and members of the board
1122 of governors who are subject to the public disclosure
1123 requirements under s. 112.3145.

1124 4. Notwithstanding s. 112.3148, s. 112.3149, or any other
1125 provision of law, an employee or board member may not knowingly

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1126 accept, directly or indirectly, any gift or expenditure from a
1127 person or entity, or an employee or representative of such
1128 person or entity, which has a contractual relationship with the
1129 corporation or who is under consideration for a contract. An
1130 employee or board member who fails to comply with subparagraph
1131 3. or this subparagraph is subject to penalties provided under
1132 ss. 112.317 and 112.3173.

1133 5. Any senior manager of the corporation who is employed
1134 on or after January 1, 2007, regardless of the date of hire, who
1135 subsequently retires or terminates employment is prohibited from
1136 representing another person or entity before the corporation for
1137 2 years after retirement or termination of employment from the
1138 corporation.

1139 6. The executive director, members of the board of
1140 governors, and senior managers of the corporation are prohibited
1141 from having any employment or contractual relationship for 2
1142 years after retirement from or termination of service to the
1143 corporation with an insurer that has entered into a take-out
1144 bonus agreement with the corporation.

1145 7. At the time of appointment, the executive director must
1146 have the experience, character, and qualifications sufficient to
1147 qualify as a chief executive officer of an insurer in accordance
1148 with s. 624.404(3).

1149 (n)1. Rates for coverage provided by the corporation must
1150 be actuarially sound and subject to s. 627.062, except as

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1151 otherwise provided in this paragraph. The corporation shall file
1152 its recommended rates with the office at least annually. The
1153 corporation shall provide any additional information regarding
1154 the rates which the office requires. The office shall consider
1155 the recommendations of the board and issue a final order
1156 establishing the rates for the corporation within 45 days after
1157 the recommended rates are filed. The corporation may not pursue
1158 an administrative challenge or judicial review of the final
1159 order of the office.

1160 2. In addition to the rates otherwise determined pursuant
1161 to this paragraph, the corporation shall impose and collect an
1162 amount equal to the premium tax provided in s. 624.509 to
1163 augment the financial resources of the corporation.

1164 3. If ~~After~~ the public hurricane loss-projection model
1165 under s. 627.06281 is ~~has been~~ found to be accurate and reliable
1166 by the Florida Commission on Hurricane Loss Projection
1167 Methodology, it must ~~the model shall~~ be considered when
1168 establishing the windstorm portion of the corporation's rates.
1169 The corporation may use the public model results in combination
1170 with the results of private models to calculate rates for the
1171 windstorm portion of the corporation's rates. This subparagraph
1172 does not require or allow the corporation to adopt rates lower
1173 than the rates otherwise required or allowed by this paragraph.

1174 4. The corporation must make a recommended actuarially
1175 sound rate filing for each personal and commercial line of

1176 business it writes.

1177 5. Notwithstanding the board's recommended rates and the
1178 office's final order regarding the corporation's filed rates
1179 under subparagraph 1., the corporation shall annually implement
1180 a rate increase that ~~which~~, except for sinkhole coverage, does
1181 not exceed the following for any single policy issued by the
1182 corporation, excluding coverage changes and surcharges:

- 1183 a. Eleven percent for 2022.
1184 b. Twelve percent for 2023.
1185 c. Thirteen percent for 2024.
1186 d. Fourteen percent for 2025.
1187 e. Fifteen percent for 2026 and all subsequent years.

1188 6. The corporation may also implement an increase to
1189 reflect the effect on the corporation of the cash buildup factor
1190 pursuant to s. 215.555(5)(b).

1191 7. The corporation's implementation of rates as prescribed
1192 in subparagraph 5. must ~~shall~~ cease for any line of business
1193 written by the corporation upon the corporation's implementation
1194 of actuarially sound rates. Thereafter, the corporation shall
1195 annually make a recommended actuarially sound rate filing for
1196 each commercial and personal line of business the corporation
1197 writes.

1198 (q)1. The corporation shall certify to the office its
1199 needs for annual assessments as to a particular calendar year,
1200 and for any interim assessments that it deems to be necessary to

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1201 sustain operations as to a particular year pending the receipt
1202 of annual assessments. Upon verification, the office shall
1203 approve such certification, and the corporation shall levy such
1204 annual or interim assessments. Such assessments shall be
1205 prorated as provided in paragraph (b). The corporation shall
1206 take all reasonable and prudent steps necessary to collect the
1207 amount of assessments due from each assessable insurer,
1208 including, if prudent, filing suit to collect the assessments,
1209 and the office may provide such assistance to the corporation it
1210 deems appropriate. If the corporation is unable to collect an
1211 assessment from any assessable insurer, the uncollected
1212 assessments shall be levied as an additional assessment against
1213 the assessable insurers and any assessable insurer required to
1214 pay an additional assessment as a result of such failure to pay
1215 shall have a cause of action against such nonpaying assessable
1216 insurer. Assessments shall be included as an appropriate factor
1217 in the making of rates. The failure of a surplus lines agent to
1218 collect and remit any regular or emergency assessment levied by
1219 the corporation is considered to be a violation of s. 626.936
1220 and subjects the surplus lines agent to the penalties provided
1221 in that section.

1222 2. The governing body of any unit of local government, any
1223 residents of which are insured by the corporation, may issue
1224 bonds as defined in s. 125.013 or s. 166.101 from time to time
1225 to fund an assistance program, in conjunction with the

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1226 corporation, for the purpose of defraying deficits of the
1227 corporation. In order to avoid needless and indiscriminate
1228 proliferation, duplication, and fragmentation of such assistance
1229 programs, any unit of local government, any residents of which
1230 are insured by the corporation, may provide for the payment of
1231 losses, regardless of whether or not the losses occurred within
1232 or outside of the territorial jurisdiction of the local
1233 government. Revenue bonds under this subparagraph may not be
1234 issued until validated pursuant to chapter 75, unless a state of
1235 emergency is declared by executive order or proclamation of the
1236 Governor pursuant to s. 252.36 making such findings as are
1237 necessary to determine that it is in the best interests of, and
1238 necessary for, the protection of the public health, safety, and
1239 general welfare of residents of this state and declaring it an
1240 essential public purpose to permit certain municipalities or
1241 counties to issue such bonds as will permit relief to claimants
1242 and policyholders of the corporation. Any such unit of local
1243 government may enter into such contracts with the corporation
1244 and with any other entity created pursuant to this subsection as
1245 are necessary to carry out this paragraph. Any bonds issued
1246 under this subparagraph shall be payable from and secured by
1247 moneys received by the corporation from emergency assessments
1248 under sub-subparagraph (b)3.d., and assigned and pledged to or
1249 on behalf of the unit of local government for the benefit of the
1250 holders of such bonds. The funds, credit, property, and taxing

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1251 power of the state or of the unit of local government may ~~shall~~
1252 not be pledged for the payment of such bonds.

1253 3.a. The corporation shall adopt one or more programs
1254 subject to approval by the office for the reduction of both new
1255 and renewal writings in the corporation. Beginning January 1,
1256 2008, any program the corporation adopts for the payment of
1257 bonuses to an insurer for each risk the insurer removes from the
1258 corporation shall comply with s. 627.3511(2) and may not exceed
1259 the amount referenced in s. 627.3511(2) for each risk removed.
1260 The corporation may consider any prudent and not unfairly
1261 discriminatory approach to reducing corporation writings, and
1262 may adopt a credit against assessment liability or other
1263 liability that provides an incentive for insurers to take risks
1264 out of the corporation and to keep risks out of the corporation
1265 by maintaining or increasing voluntary writings in counties or
1266 areas in which corporation risks are highly concentrated and a
1267 program to provide a formula under which an insurer voluntarily
1268 taking risks out of the corporation by maintaining or increasing
1269 voluntary writings will be relieved wholly or partially from
1270 assessments under sub-subparagraph (b) 3.a. However, any "take-
1271 out bonus" or payment to an insurer must be conditioned on the
1272 property being insured for at least 5 years by the insurer,
1273 unless canceled or nonrenewed by the policyholder. If the policy
1274 is canceled or nonrenewed by the policyholder before the end of
1275 the 5-year period, the amount of the take-out bonus must be

1276 | prorated for the time period the policy was insured. When the
 1277 | corporation enters into a contractual agreement for a take-out
 1278 | plan, the producing agent of record of the corporation policy is
 1279 | entitled to retain any unearned commission on such policy, and
 1280 | the insurer shall either:

1281 | (I) Pay to the producing agent of record of the policy,
 1282 | for the first year, an amount which is the greater of the
 1283 | insurer's usual and customary commission for the type of policy
 1284 | written or a policy fee equal to the usual and customary
 1285 | commission of the corporation; or

1286 | (II) Offer to allow the producing agent of record of the
 1287 | policy to continue servicing the policy for a period of not less
 1288 | than 1 year and offer to pay the agent the insurer's usual and
 1289 | customary commission for the type of policy written. If the
 1290 | producing agent is unwilling or unable to accept appointment by
 1291 | the new insurer, the new insurer shall pay the agent in
 1292 | accordance with sub-sub-subparagraph (I).

1293 | b. Any credit or exemption from regular assessments
 1294 | adopted under this subparagraph shall last no longer than the 3
 1295 | years following the cancellation or expiration of the policy by
 1296 | the corporation. With the approval of the office, the board may
 1297 | extend such credits for an additional year if the insurer
 1298 | guarantees an additional year of renewability for all policies
 1299 | removed from the corporation, or for 2 additional years if the
 1300 | insurer guarantees 2 additional years of renewability for all

1301 policies so removed.

1302 c. There shall be no credit, limitation, exemption, or
 1303 deferment from emergency assessments to be collected from
 1304 policyholders pursuant to sub-subparagraph (b)3.d.

1305 d. Notwithstanding any other law, for purposes of a
 1306 depopulation, take-out, or keep-out program adopted by the
 1307 corporation, including an initial or renewal offer of coverage
 1308 made to a policyholder removed from the corporation pursuant to
 1309 such program, an eligible surplus lines insurer may participate
 1310 in the program in the same manner and on the same terms as an
 1311 authorized insurer, except as provided under this sub-
 1312 subparagraph.

1313 (I) To qualify for participation, the surplus lines
 1314 insurer must first obtain approval from the office for its
 1315 depopulation, take-out, or keep-out plan and then comply with
 1316 all of the corporation's requirements for the plan applicable to
 1317 admitted insurers and with all statutory provisions applicable
 1318 to the removal of policies from the corporation.

1319 (II) In considering a surplus lines insurer's request for
 1320 approval for its plan, the office shall determine whether the
 1321 surplus lines insurer meets the following requirements:

1322 (A) Maintains a surplus of \$50 million on a company or
 1323 pooled basis;

1324 (B) Has a superior, excellent, exceptional, or equivalent
 1325 financial strength rating by a rating agency acceptable to the

1326 office;

1327 (C) Maintains reserves, surplus, reinsurance, and

1328 reinsurance equivalents sufficient to cover the insurer's 100-

1329 year probable maximum hurricane loss at least twice in a single

1330 hurricane season and submits such reinsurance to the office to

1331 review for purposes of the take-out;

1332 (D) Provides prominent notice to the policyholder before

1333 the assumption of the policy that surplus lines policies are not

1334 provided coverage by the Florida Insurance Guaranty Association

1335 and provides an outline of any substantial differences in

1336 coverage between the existing policy and the policy being

1337 offered to the policyholder; and

1338 (E) Provides policy coverage similar to that provided by

1339 the corporation.

1340 (III) To obtain approval for a plan, the surplus lines

1341 insurer must file the following with the office:

1342 (A) Information requested by the office to demonstrate

1343 compliance with s. 624.404(3), including biographical

1344 affidavits, fingerprints processed pursuant to s. 624.34, and

1345 the results of criminal history records checks for officers and

1346 directors of the insurer and its parent or holding company;

1347 (B) A service-of-process consent and agreement form

1348 executed by the insurer;

1349 (C) Proof that the insurer has been an eligible or

1350 authorized insurer for at least 3 years;

1351 (D) A duly authenticated copy of the insurer's current
 1352 audited financial statement, in English, which, in the case of
 1353 statements originally made in the currencies of other countries,
 1354 expresses all monetary values in United States dollars, at an
 1355 exchange rate then current and shown in the statement, and
 1356 including any additional information relative to the insurer as
 1357 the office may request;

1358 (E) A complete certified copy of the latest official
 1359 financial statement required by the insurer's domiciliary state,
 1360 if different from the statement required by sub-sub-sub-
 1361 subparagraph (D); and

1362 (F) If applicable, a copy of the United States trust
 1363 account agreement.

1364
 1365 This sub-sub-subparagraph does not subject any surplus lines
 1366 insurer to requirements in addition to part VIII of chapter 626.
 1367 Surplus lines brokers making an offer of coverage under this
 1368 sub-sub-subparagraph are not required to comply with s.
 1369 626.916(1)(a), (b), (c), or (e).

1370 (IV) Within 10 days after the date of assumption, the
 1371 surplus lines insurer assuming policies from the corporation
 1372 shall remit to the Bureau of Collateral Management within the
 1373 Department of Financial Services a special deposit equal to the
 1374 unearned premium net of unearned commissions on the assumed
 1375 block of business. The surplus lines insurer shall submit to the

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1376 office, along with the special deposit, an accounting of the
1377 policies assumed and the amount of unearned premium for such
1378 policies and a sworn affidavit attesting to the accuracy of the
1379 accounting by an officer of the surplus lines insurer.
1380 Thereafter, the surplus lines insurer shall make a filing within
1381 10 days after the end of each calendar quarter attesting to the
1382 unearned premium in force for the previous quarter on policies
1383 assumed from the corporation and shall submit additional funds
1384 with that filing if the special deposit is insufficient to cover
1385 the unearned premium on assumed policies, or shall receive a
1386 return of funds within 60 days if the special deposit exceeds
1387 the amount of unearned premium required for assumed policies.
1388 The special deposit is an asset of the surplus lines insurer
1389 which is held by the department for the benefit of state
1390 policyholders of the surplus lines insurer in the event of the
1391 insolvency of the surplus lines insurer. If an order of
1392 liquidation is entered in any state against the surplus lines
1393 insurer, the department may use the special deposit for payment
1394 of unearned premium or policy claims, return all or part of the
1395 deposit to the domiciliary receiver, or use the funds in
1396 accordance with any action authorized under part I of chapter
1397 631 or in compliance with any order of a court having
1398 jurisdiction over the insolvency.
1399 (V) In advance of a surplus lines insurer assuming a
1400 policy, surplus lines brokers representing a surplus lines

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1401 insurer on a take-out program shall obtain confirmation, in
1402 written or e-mail form, from each producing agent stating that
1403 the agent is willing to participate in the take-out program with
1404 the surplus lines insurer engaging in the take-out program. The
1405 take-out program is also subject to s. 627.3517. If a
1406 policyholder is selected for removal from the corporation by a
1407 surplus lines insurer and an authorized insurer, the corporation
1408 must give priority to the offer of coverage from the authorized
1409 insurer.

1410 (VI) (A) A risk that has a dwelling replacement cost of
1411 \$700,000 or more or a single condominium unit that has a
1412 combined dwelling and contents replacement cost of \$700,000 or
1413 more is not eligible for coverage by the corporation if it is
1414 offered comparable coverage from a qualified surplus lines
1415 insurer at a premium no greater than 15 percent above the
1416 premium charged by the corporation.

1417 (B) A risk that has a dwelling replacement cost below
1418 \$700,000 or a single condominium unit that has a combined
1419 dwelling and contents replacement cost below \$700,000 remains
1420 eligible for coverage by the corporation if it is offered
1421 coverage from a qualified surplus lines insurer.

1422 4. The plan shall provide for the deferment, in whole or
1423 in part, of the assessment of an assessable insurer, other than
1424 an emergency assessment collected from policyholders pursuant to
1425 sub-subparagraph (b)3.d., if the office finds that payment of

1426 the assessment would endanger or impair the solvency of the
1427 insurer. In the event an assessment against an assessable
1428 insurer is deferred in whole or in part, the amount by which
1429 such assessment is deferred may be assessed against the other
1430 assessable insurers in a manner consistent with the basis for
1431 assessments set forth in paragraph (b).

1432 5. Effective July 1, 2007, in order to evaluate the costs
1433 and benefits of approved take-out plans, if the corporation pays
1434 a bonus or other payment to an insurer for an approved take-out
1435 plan, it shall maintain a record of the address or such other
1436 identifying information on the property or risk removed in order
1437 to track if and when the property or risk is later insured by
1438 the corporation.

1439 6. Any policy taken out, assumed, or removed from the
1440 corporation is, as of the effective date of the take-out,
1441 assumption, or removal, direct insurance issued by the insurer
1442 and not by the corporation, even if the corporation continues to
1443 service the policies. This subparagraph applies to policies of
1444 the corporation and not policies taken out, assumed, or removed
1445 from any other entity.

1446 7. For a policy taken out, assumed, or removed from the
1447 corporation, the insurer may, for a period of no more than 3
1448 years, continue to use any of the corporation's policy forms or
1449 endorsements that apply to the policy taken out, removed, or
1450 assumed without obtaining approval from the office for use of

1451 such policy form or endorsement.

1452 (x)1. The following records of the corporation are
1453 confidential and exempt from ~~the provisions of~~ s. 119.07(1) and
1454 s. 24(a), Art. I of the State Constitution:

1455 a. Underwriting files, except that a policyholder or an
1456 applicant shall have access to his or her own underwriting
1457 files. Confidential and exempt underwriting file records may
1458 also be released to other governmental agencies upon written
1459 request and demonstration of need; such records held by the
1460 receiving agency remain confidential and exempt as provided
1461 herein.

1462 b. Claims files, until termination of all litigation and
1463 settlement of all claims arising out of the same incident,
1464 although portions of the claims files may remain exempt, as
1465 otherwise provided by law. Confidential and exempt claims file
1466 records may be released to other governmental agencies upon
1467 written request and demonstration of need; such records held by
1468 the receiving agency remain confidential and exempt as provided
1469 herein.

1470 c. Records obtained or generated by an internal auditor
1471 pursuant to a routine audit, until the audit is completed, or if
1472 the audit is conducted as part of an investigation, until the
1473 investigation is closed or ceases to be active. An investigation
1474 is considered "active" while the investigation is being
1475 conducted with a reasonable, good faith belief that it could

1476 | lead to the filing of administrative, civil, or criminal
1477 | proceedings.

1478 | d. Matters reasonably encompassed in privileged attorney-
1479 | client communications.

1480 | e. Proprietary information licensed to the corporation
1481 | under contract and the contract provides for the confidentiality
1482 | of such proprietary information.

1483 | f. All information relating to the medical condition or
1484 | medical status of a corporation employee which is not relevant
1485 | to the employee's capacity to perform his or her duties, except
1486 | as otherwise provided in this paragraph. Information that is
1487 | exempt includes ~~shall include~~, but is not limited to,
1488 | information relating to workers' compensation, insurance
1489 | benefits, and retirement or disability benefits.

1490 | g. Upon an employee's entrance into the employee
1491 | assistance program, a program to assist any employee who has a
1492 | behavioral or medical disorder, substance abuse problem, or
1493 | emotional difficulty that affects the employee's job
1494 | performance, all records relative to that participation are
1495 | ~~shall be~~ confidential and exempt from ~~the provisions of~~ s.
1496 | 119.07(1) and s. 24(a), Art. I of the State Constitution, except
1497 | as otherwise provided in s. 112.0455(11).

1498 | h. Information relating to negotiations for financing,
1499 | reinsurance, depopulation, or contractual services, until the
1500 | conclusion of the negotiations.

1501 i. Minutes of closed meetings regarding underwriting
1502 files, and minutes of closed meetings regarding an open claims
1503 file until termination of all litigation and settlement of all
1504 claims with regard to that claim, except that information
1505 otherwise confidential or exempt by law must ~~shall~~ be redacted.

1506 2. If an authorized insurer, a reinsurance intermediary,
1507 an eligible surplus lines insurer, or an entity that has filed
1508 an application with the office for licensure as a property and
1509 casualty insurer in this state is considering writing or
1510 assisting in the underwriting of a risk insured by the
1511 corporation, relevant information from both the underwriting
1512 files and confidential claims files may be released to the
1513 insurer, reinsurance intermediary, eligible surplus lines
1514 insurer, or entity that has been created to seek authority to
1515 write property and casualty insurance in this state, provided
1516 that the recipient ~~insurer~~ agrees in writing, notarized and
1517 under oath, to maintain the confidentiality of such files. If a
1518 policy file is transferred to an insurer, that policy file is no
1519 longer a public record because it is not held by an agency
1520 subject to ~~the provisions of~~ the public records law.
1521 Underwriting files and confidential claims files may also be
1522 released to staff and the board of governors of the market
1523 assistance plan established pursuant to s. 627.3515, who must
1524 retain the confidentiality of such files, except such files may
1525 be released to authorized insurers that are considering assuming

1526 | the risks to which the files apply, provided the insurer agrees
1527 | in writing, notarized and under oath, to maintain the
1528 | confidentiality of such files. Finally, the corporation or the
1529 | board or staff of the market assistance plan may make the
1530 | following information obtained from underwriting files and
1531 | confidential claims files available to an entity that has
1532 | obtained a permit to become an authorized insurer, a reinsurer
1533 | that may provide reinsurance under s. 624.610, a licensed
1534 | reinsurance broker, a licensed rating organization, a modeling
1535 | company, or a licensed general lines insurance agent: name,
1536 | address, and telephone number of the residential property owner
1537 | or insured; location of the risk; rating information; loss
1538 | history; and policy type. The receiving person must retain the
1539 | confidentiality of the information received and may use the
1540 | information only for the purposes of developing a take-out plan
1541 | or a rating plan to be submitted to the office for approval or
1542 | otherwise analyzing the underwriting of a risk or risks insured
1543 | by the corporation on behalf of the private insurance market. A
1544 | licensed general lines insurance agent may not use such
1545 | information for the direct solicitation of policyholders.

1546 | 3. A policyholder who has filed suit against the
1547 | corporation has the right to discover the contents of his or her
1548 | own claims file to the same extent that discovery of such
1549 | contents would be available from a private insurer in litigation
1550 | as provided by the Florida Rules of Civil Procedure, the Florida

1551 Evidence Code, and other applicable law. Pursuant to subpoena, a
1552 third party has the right to discover the contents of an
1553 insured's or applicant's underwriting or claims file to the same
1554 extent that discovery of such contents would be available from a
1555 private insurer by subpoena as provided by the Florida Rules of
1556 Civil Procedure, the Florida Evidence Code, and other applicable
1557 law, and subject to any confidentiality protections requested by
1558 the corporation and agreed to by the seeking party or ordered by
1559 the court. The corporation may release confidential underwriting
1560 and claims file contents and information as it deems necessary
1561 and appropriate to underwrite or service insurance policies and
1562 claims, subject to any confidentiality protections deemed
1563 necessary and appropriate by the corporation.

1564 4. Portions of meetings of the corporation are exempt from
1565 ~~the provisions of~~ s. 286.011 and s. 24(b), Art. I of the State
1566 Constitution wherein confidential underwriting files or
1567 confidential open claims files are discussed. All portions of
1568 corporation meetings which are closed to the public shall be
1569 recorded by a court reporter. The court reporter shall record
1570 the times of commencement and termination of the meeting, all
1571 discussion and proceedings, the names of all persons present at
1572 any time, and the names of all persons speaking. No portion of
1573 any closed meeting shall be off the record. Subject to the
1574 provisions hereof and s. 119.07(1)(d)-(f), the court reporter's
1575 notes of any closed meeting shall be retained by the corporation

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1576 for a minimum of 5 years. A copy of the transcript, less any
1577 exempt matters, of any closed meeting wherein claims are
1578 discussed shall become public as to individual claims after
1579 settlement of the claim.

1580 (ii) The corporation shall revise the programs adopted
1581 pursuant to sub-subparagraph (q)3.a. for personal lines
1582 residential policies to maximize policyholder options and
1583 encourage increased participation by insurers and agents. After
1584 January 1, 2017, a policy may not be taken out of the
1585 corporation unless the provisions of this paragraph are met.

1586 1. The corporation must publish a periodic schedule of
1587 cycles during which an insurer may identify, and notify the
1588 corporation of, policies that the insurer is requesting to take
1589 out. A request must include a description of the coverage
1590 offered and an estimated premium and must be submitted to the
1591 corporation in a form and manner prescribed by the corporation.

1592 2. The corporation must maintain and make available to the
1593 agent of record a consolidated list of all insurers requesting
1594 to take out a policy. The list must include a description of the
1595 coverage offered and the estimated premium for each take-out
1596 request.

1597 3. The corporation must provide written notice to the
1598 policyholder and the agent of record regarding all insurers
1599 requesting to take out the policy, which must inform that a
1600 take-out offer that is not more than 20 percent greater than the

1601 corporation's premium renders the risk ineligible for coverage
 1602 from the corporation and regarding the policyholder's option to
 1603 accept a take-out offer or to reject all take-out offers and to
 1604 remain with the corporation. The notice must be in a format
 1605 prescribed by the corporation and include, for each take-out
 1606 offer:

- 1607 a. The amount of the estimated premium;
- 1608 b. A description of the coverage; and
- 1609 c. A comparison of the estimated premium and coverage
 1610 offered by the insurer to the estimated premium and coverage
 1611 provided by the corporation.

1612 Section 3. Section 627.3517, Florida Statutes, is amended
 1613 to read:

1614 627.3517 Consumer choice.—No provision of s. 627.351, s.
 1615 627.3511, or s. 627.3515 shall be construed to impair the right
 1616 of any insurance risk apportionment plan policyholder, upon
 1617 receipt of any keep-out ~~keepout~~ or take-out offer, to retain his
 1618 or her current agent, so long as that agent is duly licensed and
 1619 appointed by the insurance risk apportionment plan or otherwise
 1620 authorized to place business with the insurance risk
 1621 apportionment plan. This right may ~~shall~~ not be canceled,
 1622 suspended, impeded, abridged, or otherwise compromised by any
 1623 rule, plan of operation, or depopulation plan, whether through
 1624 keep-out ~~keepout~~, take-out, midterm assumption, or any other
 1625 means, of any insurance risk apportionment plan or depopulation

1626 plan, including, but not limited to, those described in s.
 1627 627.351, s. 627.3511, or s. 627.3515. The commission shall adopt
 1628 any rules necessary to cause any insurance risk apportionment
 1629 plan or market assistance plan under such sections to
 1630 demonstrate that the operations of the plan do not interfere
 1631 with, promote, or allow interference with the rights created
 1632 under this section. If the policyholder's current agent is
 1633 unable or unwilling to be appointed with the insurer making the
 1634 take-out or keep-out ~~keepout~~ offer, the policyholder is ~~shall~~
 1635 not ~~be~~ disqualified from participation in the appropriate
 1636 insurance risk apportionment plan because of an offer of
 1637 coverage in the voluntary market. An offer of full property
 1638 insurance coverage by the insurer currently insuring either the
 1639 ex-wind or wind-only coverage on the policy to which the offer
 1640 applies is ~~shall~~ not ~~be~~ considered a take-out or keep-out
 1641 ~~keepout~~ offer. Any rule, plan of operation, or plan of
 1642 depopulation, through keep-out ~~keepout~~, take-out, midterm
 1643 assumption, or any other means, of any property insurance risk
 1644 apportionment plan under s. 627.351(2) or (6) is subject to ss.
 1645 627.351(2)(b) and (6)(c) and 627.3511(4).

1646 Section 4. Section 627.3518, Florida Statutes, is amended
 1647 to read:

1648 627.3518 Citizens Property Insurance Corporation
 1649 policyholder eligibility clearinghouse program. ~~The purpose of~~
 1650 ~~this section is to provide a framework for the corporation to~~

1651 ~~implement a clearinghouse program by January 1, 2014.~~

1652 (1) As used in this section, the term:

1653 (a) "Corporation" means Citizens Property Insurance
1654 Corporation.

1655 (b) "Exclusive agent" means any licensed insurance agent
1656 that has, by contract, agreed to act exclusively for one company
1657 or group of affiliated insurance companies and is disallowed by
1658 the provisions of that contract to directly write for any other
1659 unaffiliated insurer absent express consent from the company or
1660 group of affiliated insurance companies.

1661 (c) "Independent agent" means any licensed insurance agent
1662 not described in paragraph (b).

1663 (d) "Program" means the clearinghouse created under this
1664 section.

1665 (2) In order to confirm eligibility with the corporation
1666 and to enhance access of new applicants for coverage and
1667 existing policyholders of the corporation to offers of coverage
1668 from authorized insurers, the corporation shall establish a
1669 program for personal residential risks in order to facilitate
1670 the diversion of ineligible applicants and existing
1671 policyholders from the corporation into the voluntary insurance
1672 market. The corporation shall also develop appropriate
1673 procedures for facilitating the diversion of ineligible
1674 applicants and existing policyholders for commercial residential
1675 coverage into the private insurance market ~~and shall report such~~

1676 ~~procedures to the President of the Senate and the Speaker of the~~
1677 ~~House of Representatives by January 1, 2014.~~

1678 (3) The corporation board shall establish the
1679 clearinghouse program as an organizational unit within the
1680 corporation. The program shall have all the rights and
1681 responsibilities in carrying out its duties as a licensed
1682 general lines agent, but may not be required to employ or engage
1683 a licensed general lines agent or to maintain an insurance
1684 agency license to carry out its activities in the solicitation
1685 and placement of insurance coverage. In establishing the
1686 program, the corporation may:

1687 (a) Require all new applications, and all policies due for
1688 renewal, to be submitted for coverage to the program in order to
1689 facilitate obtaining an offer of coverage from an authorized
1690 insurer before binding or renewing coverage by the corporation.

1691 (b) Employ or otherwise contract with individuals or other
1692 entities for appropriate administrative or professional services
1693 to effectuate the plan within the corporation in accordance with
1694 the applicable purchasing requirements under s. 627.351.

1695 (c) Enter into contracts with any authorized insurer to
1696 participate in the program and accept an appointment by such
1697 insurer.

1698 (d) Provide funds to operate the program. Insurers and
1699 agents participating in the program are not required to pay a
1700 fee to offset or partially offset the cost of the program or use

1701 the program for renewal of policies initially written through
 1702 the clearinghouse.

1703 (e) Develop an enhanced application that includes
 1704 information to assist private insurers in determining whether to
 1705 make an offer of coverage through the program.

1706 (f) For personal lines residential risks, require, before
 1707 approving all new applications for coverage by the corporation,
 1708 that every application be subject to a period of 2 business days
 1709 when any insurer participating in the program may select the
 1710 application for coverage. The insurer may issue a binder on any
 1711 policy selected for coverage for a period of at least 30 days
 1712 but not more than 60 days.

1713 (4) Any authorized insurer may participate in the program;
 1714 however, participation is not mandatory for any insurer.
 1715 Insurers making offers of coverage to new applicants or renewal
 1716 policyholders through the program:

1717 (a) May not be required to individually appoint any agent
 1718 whose customer is underwritten and bound through the program.
 1719 Notwithstanding s. 626.112, insurers are not required to appoint
 1720 any agent on a policy underwritten through the program for as
 1721 long as that policy remains with the insurer. Insurers may, at
 1722 their election, appoint any agent whose customer is initially
 1723 underwritten and bound through the program. In the event an
 1724 insurer accepts a policy from an agent who is not appointed
 1725 pursuant to this paragraph, and thereafter elects to accept a

1726 policy from such agent, the provisions of s. 626.112 requiring
1727 appointment apply to the agent.

1728 (b) Must enter into a limited agency agreement with each
1729 agent that is not appointed in accordance with paragraph (a) and
1730 whose customer is underwritten and bound through the program.

1731 (c) Must enter into its standard agency agreement with
1732 each agent whose customer is underwritten and bound through the
1733 program when that agent has been appointed by the insurer
1734 pursuant to s. 626.112.

1735 (d) Must comply with s. 627.4133(2).

1736 (e) May participate through their single-designated
1737 managing general agent or broker; however, the provisions of
1738 paragraph (6)(a) regarding ownership, control, and use of the
1739 expirations continue to apply.

1740 (f) Must pay to the producing agent a commission equal to
1741 that paid by the corporation or the usual and customary
1742 commission paid by the insurer for that line of business,
1743 whichever is greater.

1744 (5) Notwithstanding s. 627.3517, any applicant for new
1745 coverage from the corporation is not eligible for coverage from
1746 the corporation if provided an offer of coverage from an
1747 authorized insurer through the program at a premium that is at
1748 or below the eligibility threshold established in s.
1749 627.351(6)(c)5.a. Whenever an offer of coverage for a personal
1750 lines risk is received for a policyholder of the corporation at

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1751 renewal from an authorized insurer through the program, ~~if the~~
1752 ~~offer is equal to or less than the corporation's renewal premium~~
1753 ~~for comparable coverage,~~ the risk is not eligible for coverage
1754 with the corporation if the offer is at or below the eligibility
1755 threshold specified in s. 627.351(6)(c)5.a. In the event that an
1756 offer of coverage for a new applicant is received from an
1757 authorized insurer through the program, and the premium offered
1758 exceeds the eligibility threshold specified ~~contained~~ in s.
1759 627.351(6)(c)5.a., the applicant or insured may elect to accept
1760 such coverage, or may elect to accept or continue coverage with
1761 the corporation. In the event that an offer of coverage for a
1762 personal lines risk is received from an authorized insurer at
1763 renewal through the program, and the premium offered is at or
1764 below the eligibility threshold specified in s.
1765 627.351(6)(c)5.a. ~~more than the corporation's renewal premium~~
1766 ~~for comparable coverage,~~ the insured is not eligible to ~~may~~
1767 ~~elect to accept such coverage, or may elect to accept or~~
1768 continue coverage with the corporation. Section
1769 627.351(6)(c)5.a.(I) does not apply to an offer of coverage from
1770 an authorized insurer obtained through the program. An applicant
1771 for coverage from the corporation who was declared ineligible
1772 for coverage at renewal by the corporation in the previous 36
1773 months due to an offer of coverage pursuant to this subsection
1774 shall be considered a renewal under this section if the
1775 corporation determines that the authorized insurer making the

1776 offer of coverage pursuant to this subsection continues to
 1777 insure the applicant and increased the rate on the policy in
 1778 excess of the increase allowed for the corporation under s.
 1779 627.351 (6) (n)5.

1780 (6) Independent insurance agents submitting new
 1781 applications for coverage or that are the agent of record on a
 1782 renewal policy submitted to the program:

1783 (a) Are granted and must maintain ownership and the
 1784 exclusive use of expirations, records, or other written or
 1785 electronic information directly related to such applications or
 1786 renewals written through the corporation or through an insurer
 1787 participating in the program, notwithstanding s.
 1788 627.351 (6) (c)5.a. (I) (B) and (II) (B). Such ownership is granted
 1789 for as long as the insured remains with the agency or until sold
 1790 or surrendered in writing by the agent. Contracts with the
 1791 corporation or required by the corporation must not amend,
 1792 modify, interfere with, or limit such rights of ownership. Such
 1793 expirations, records, or other written or electronic information
 1794 may be used to review an application, issue a policy, or for any
 1795 other purpose necessary for placing such business through the
 1796 program.

1797 (b) May not be required to be appointed by any insurer
 1798 participating in the program for policies written solely through
 1799 the program, notwithstanding the provisions of s. 626.112.

1800 (c) May accept an appointment from any insurer

1801 participating in the program.

1802 (d) May enter into either a standard or limited agency
1803 agreement with the insurer, at the insurer's option.

1804
1805 Applicants ineligible for coverage in accordance with subsection
1806 (5) remain ineligible if their independent agent is unwilling or
1807 unable to enter into a standard or limited agency agreement with
1808 an insurer participating in the program.

1809 (7) Exclusive agents submitting new applications for
1810 coverage or that are the agent of record on a renewal policy
1811 submitted to the program:

1812 (a) Must maintain ownership and the exclusive use of
1813 expirations, records, or other written or electronic information
1814 directly related to such applications or renewals written
1815 through the corporation or through an insurer participating in
1816 the program, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and
1817 (II)(B). Contracts with the corporation or required by the
1818 corporation must not amend, modify, interfere with, or limit
1819 such rights of ownership. Such expirations, records, or other
1820 written or electronic information may be used to review an
1821 application, issue a policy, or for any other purpose necessary
1822 for placing such business through the program.

1823 (b) May not be required to be appointed by any insurer
1824 participating in the program for policies written solely through
1825 the program, notwithstanding the provisions of s. 626.112.

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1826 (c) Must only facilitate the placement of an offer of
1827 coverage from an insurer whose limited servicing agreement is
1828 approved by that exclusive agent's exclusive insurer.

1829 (d) May enter into a limited servicing agreement with the
1830 insurer making an offer of coverage, and only after the
1831 exclusive agent's insurer has approved the limited servicing
1832 agreement terms. The exclusive agent's insurer must approve a
1833 limited service agreement for the program for any insurer for
1834 which it has approved a service agreement for other purposes.

1835
1836 Applicants ineligible for coverage in accordance with subsection
1837 (5) remain ineligible if their exclusive agent is unwilling or
1838 unable to enter into a standard or limited agency agreement with
1839 an insurer making an offer of coverage to that applicant.

1840 (8) Submission of an application for coverage by the
1841 corporation to the program does not constitute the binding of
1842 coverage by the corporation, and failure of the program to
1843 obtain an offer of coverage by an insurer may not be considered
1844 acceptance of coverage of the risk by the corporation.

1845 (9) The 45-day notice of nonrenewal requirement set forth
1846 in s. 627.4133(2)(b)5. applies when a policy is nonrenewed by
1847 the corporation because the risk has received an offer of
1848 coverage pursuant to this section which renders the risk
1849 ineligible for coverage by the corporation.

1850 (10) The program may not include commercial nonresidential

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1851 policies.

1852 (11) Proprietary business information provided to the
1853 corporation's clearinghouse by insurers with respect to
1854 identifying and selecting risks for an offer of coverage is
1855 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
1856 of the State Constitution.

1857 (a) As used in this subsection, the term "proprietary
1858 business information" means information, regardless of form or
1859 characteristics, which is owned or controlled by an insurer and:

1860 1. Is identified by the insurer as proprietary business
1861 information and is intended to be and is treated by the insurer
1862 as private in that the disclosure of the information would cause
1863 harm to the insurer, an individual, or the company's business
1864 operations and has not been disclosed unless disclosed pursuant
1865 to a statutory requirement, an order of a court or
1866 administrative body, or a private agreement that provides that
1867 the information will not be released to the public;

1868 2. Is not otherwise readily ascertainable or publicly
1869 available by proper means by other persons from another source
1870 in the same configuration as provided to the clearinghouse; and

1871 3. Includes:

1872 a. Trade secrets, as defined in s. 688.002.

1873 b. Information relating to competitive interests, the
1874 disclosure of which would impair the competitive business of the
1875 provider of the information.

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1877 Proprietary business information may be found in underwriting
1878 criteria or instructions which are used to identify and select
1879 risks through the program for an offer of coverage and are
1880 shared with the clearinghouse to facilitate the shopping of
1881 risks with the insurer.

1882 (b) The clearinghouse may disclose confidential and exempt
1883 proprietary business information:

1884 1. If the insurer to which it pertains gives prior written
1885 consent;

1886 2. Pursuant to a court order; or

1887 3. To another state agency in this or another state or to
1888 a federal agency if the recipient agrees in writing to maintain
1889 the confidential and exempt status of the document, material, or
1890 other information and has verified in writing its legal
1891 authority to maintain such confidentiality.

1892 Section 5. This act shall take effect July 1, 2022.