

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

26 | to personal lines residential risks that are primary  
27 | residences; providing that comparisons of comparable  
28 | coverages under certain personal lines residential  
29 | risks and commercial lines residential risks do not  
30 | apply to policies that do not cover primary  
31 | residences; providing that certain risks that could  
32 | not be insured under standard policies are eligible  
33 | for certain basic policies; authorizing policies that  
34 | are removed from the corporation through assumption  
35 | agreements to remain on the corporation's policy forms  
36 | through the end of policy terms; providing duties of  
37 | the insurers relating to producing agents of record  
38 | under certain circumstances; revising the  
39 | corporation's plan of operation; revising the required  
40 | statements from applicants for coverage; revising the  
41 | duties of the executive director of the corporation;  
42 | authorizing the executive director to assign and  
43 | appoint designees; removing a nonapplicability  
44 | provision relating to bond requirements; removing  
45 | obsolete language; authorizing insurers' assessable  
46 | insureds to be relieved from assessments under certain  
47 | circumstances; removing provisions relating to certain  
48 | insurer assessment deferments; removing provisions  
49 | relating to the intangibles of and coverage by the  
50 | Florida Windstorm Underwriting Association and the

51 corporation coastal account; authorizing the  
 52 corporation and certain persons to make specified  
 53 information obtained from underwriting files and  
 54 confidential claims files available to licensed  
 55 surplus lines agents; prohibiting such agents from  
 56 using such information for specified purposes;  
 57 authorizing the corporation to share its claims data  
 58 with a specified entity; amending s. 627.3511, F.S.;  
 59 conforming provisions to changes made by the act;  
 60 conforming cross-references; providing the corporation  
 61 authority relating to patents, copyrights, and  
 62 trademarks; amending s. 627.3518, F.S.; providing  
 63 nonapplicability of provisions relating to  
 64 noneligibility for coverage by the corporation;  
 65 providing effective dates.

66  
 67 Be It Enacted by the Legislature of the State of Florida:

68  
 69 Section 1. Subsection (7) of section 627.351, Florida  
 70 Statutes, is renumbered as subsection (8), paragraph (b) of  
 71 subsection (2) and subsection (6) are amended, and a new  
 72 subsection (7) is added to that section, to read:

- 73 627.351 Insurance risk apportionment plans.—  
 74 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.—  
 75 (b) The department shall require all insurers holding a

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

96 1. For the purpose of this section, properties eligible  
 97 for such windstorm coverage are defined as dwellings, buildings,  
 98 and other structures, including mobile homes which are used as  
 99 dwellings and which are tied down in compliance with mobile home  
 100 tie-down requirements prescribed by the Department of Highway

101 Safety and Motor Vehicles pursuant to s. 320.8325, and the  
102 contents of all such properties. An applicant or policyholder is  
103 eligible for coverage only if an offer of coverage cannot be  
104 obtained by or for the applicant or policyholder from an  
105 admitted insurer at approved rates.

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

126 authority to transact property insurance in the state and shall  
127 terminate 1 year after the end of the calendar year during which  
128 it no longer holds a certificate of authority to transact  
129 property insurance in the state. The commissioner, after review  
130 of annual statements, other reports, and any other statistics  
131 that the commissioner deems necessary, shall certify to the  
132 association the aggregate direct premiums written for property  
133 insurance in this state by all member insurers.

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

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

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

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

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

176 hurricanes. With the approval of the department, the board may  
177 extend such credits for an additional year if the insurer  
178 guarantees an additional year of renewability for all policies  
179 removed from the Residential Property and Casualty Joint  
180 Underwriting Association, or for 2 additional years if the  
181 insurer guarantees 2 additional years of renewability for all  
182 policies removed from the Residential Property and Casualty  
183 Joint Underwriting Association.

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

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

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



201 assessment on member insurers in an amount equal to the deficit.

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

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

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

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

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

271 (V) If regular deficit assessments are made under sub-sub-  
272 subparagraph (I) or sub-sub-subparagraph (II), ~~or by the~~  
273 ~~Residential Property and Casualty Joint Underwriting Association~~  
274 ~~under sub-subparagraph (6)(b)3.a.,~~ the association shall levy  
275 upon the association's policyholders, as part of its next rate

276 filing, or by a separate rate filing solely for this purpose, a  
 277 market equalization surcharge in a percentage equal to the total  
 278 amount of such regular assessments divided by the aggregate  
 279 statewide direct written premium for property insurance for  
 280 member insurers for the prior calendar year. Market equalization  
 281 surcharges under this sub-sub-subparagraph are not considered  
 282 premium and are not subject to commissions, fees, or premium  
 283 taxes; however, failure to pay a market equalization surcharge  
 284 shall be treated as failure to pay premium.

285 e. The governing body of any unit of local government, any  
 286 residents of which are insured under the plan, may issue bonds  
 287 as defined in s. 125.013 or s. 166.101 to fund an assistance  
 288 program, in conjunction with the association, for the purpose of  
 289 defraying deficits of the association. In order to avoid  
 290 needless and indiscriminate proliferation, duplication, and  
 291 fragmentation of such assistance programs, any unit of local  
 292 government, any residents of which are insured by the  
 293 association, may provide for the payment of losses, regardless  
 294 of whether or not the losses occurred within or outside of the  
 295 territorial jurisdiction of the local government. Revenue bonds  
 296 may not be issued until validated pursuant to chapter 75, unless  
 297 a state of emergency is declared by executive order or  
 298 proclamation of the Governor pursuant to s. 252.36 making such  
 299 findings as are necessary to determine that it is in the best  
 300 interests of, and necessary for, the protection of the public

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

326 the solvency of the insurer. The authority granted by this sub-  
327 subparagraph is additional to any bonding authority granted by  
328 subparagraph 6.

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

351 2.d.(III).

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

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

368 b. It is the intent of the Legislature that the rates for  
 369 coverage provided by the association be actuarially sound and  
 370 not competitive with approved rates charged in the admitted  
 371 voluntary market such that the association functions as a  
 372 residual market mechanism to provide insurance only when the  
 373 insurance cannot be procured in the voluntary market. The plan  
 374 of operation shall provide a mechanism to assure that, beginning  
 375 no later than January 1, 1999, the rates charged by the

376 association for each line of business are reflective of approved  
377 rates in the voluntary market for hurricane coverage for each  
378 line of business in the various areas eligible for association  
379 coverage.

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

395 d. The plan of operation must provide objective criteria  
396 and procedures, approved by the department, to be uniformly  
397 applied for all applicants in determining whether an individual  
398 risk is so hazardous as to be uninsurable. In making this  
399 determination and in establishing the criteria and procedures,  
400 the following shall be considered:



401 (I) Whether the likelihood of a loss for the individual  
 402 risk is substantially higher than for other risks of the same  
 403 class; and

404 (II) Whether the uncertainty associated with the  
 405 individual risk is such that an appropriate premium cannot be  
 406 determined.

407  
 408 The acceptance or rejection of a risk by the association  
 409 pursuant to such criteria and procedures must be construed as  
 410 the private placement of insurance, and the provisions of  
 411 chapter 120 do not apply.

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

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

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

426 than 1 year and offer to pay the agent the greater of the  
427 insurer's or the association's usual and customary commission  
428 for the type of policy written.

429  
430 If the producing agent is unwilling or unable to accept  
431 appointment, the new insurer shall pay the agent in accordance  
432 with sub-sub-subparagraph (I). Subject to the provisions of s.  
433 627.3517, the policies issued by the association must provide  
434 that if the association obtains an offer from an authorized  
435 insurer to cover the risk at its approved rates under either a  
436 standard policy including wind coverage or, if consistent with  
437 the insurer's underwriting rules as filed with the department, a  
438 basic policy including wind coverage, the risk is no longer  
439 eligible for coverage through the association. Upon termination  
440 of eligibility, the association shall provide written notice to  
441 the policyholder and agent of record stating that the  
442 association policy must be canceled as of 60 days after the date  
443 of the notice because of the offer of coverage from an  
444 authorized insurer. Other provisions of the insurance code  
445 relating to cancellation and notice of cancellation do not apply  
446 to actions under this sub-subparagraph.

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

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

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

461  
 462 If the producing agent is unwilling or unable to accept  
 463 appointment, the new insurer shall pay the agent in accordance  
 464 with sub-sub-subparagraph (I).

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

475 b. Any entity created under this subsection, or any entity

476 | formed for the purposes of this subsection, may sue and be sued,  
477 | may borrow money; issue bonds, notes, or debt instruments;  
478 | pledge or sell assessments, market equalization surcharges and  
479 | other surcharges, rights, premiums, contractual rights,  
480 | projected recoveries from the Florida Hurricane Catastrophe  
481 | Fund, other reinsurance recoverables, and other assets as  
482 | security for such bonds, notes, or debt instruments; enter into  
483 | any contracts or agreements necessary or proper to accomplish  
484 | such borrowings; and take other actions necessary to carry out  
485 | the purposes of this subsection. The association may issue bonds  
486 | or incur other indebtedness, or have bonds issued on its behalf  
487 | by a unit of local government pursuant to subparagraph (6)(q)2.,  
488 | in the absence of a hurricane or other weather-related event,  
489 | upon a determination by the association subject to approval by  
490 | the department that such action would enable it to efficiently  
491 | meet the financial obligations of the association and that such  
492 | financings are reasonably necessary to effectuate the  
493 | requirements of this subsection. Any such entity may accumulate  
494 | reserves and retain surpluses as of the end of any association  
495 | year to provide for the payment of losses incurred by the  
496 | association during that year or any future year. The association  
497 | shall incorporate and continue the plan of operation and  
498 | articles of agreement in effect on the effective date of chapter  
499 | 76-96, Laws of Florida, to the extent that it is not  
500 | inconsistent with chapter 76-96, and as subsequently modified

501 consistent with chapter 76-96. The board of directors and  
502 officers currently serving shall continue to serve until their  
503 successors are duly qualified as provided under the plan. The  
504 assets and obligations of the plan in effect immediately prior  
505 to the effective date of chapter 76-96 shall be construed to be  
506 the assets and obligations of the successor plan created herein.

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

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

520 8. Subject to approval by the department, the association  
521 may establish different eligibility requirements and operational  
522 procedures for any line or type of coverage for any specified  
523 eligible area or portion of an eligible area if the board  
524 determines that such changes to the eligibility requirements and  
525 operational procedures are justified due to the voluntary market

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

536 |         9. Notwithstanding any other provision of law:

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

547 |             b. No such proceeding shall relieve the association of its  
548 | obligation, or otherwise affect its ability to perform its  
549 | obligation, to continue to collect, or levy and collect,  
550 | assessments, market equalization or other surcharges, projected

551 recoveries from the Florida Hurricane Catastrophe Fund,  
 552 reinsurance recoverables, or any other rights, revenues, or  
 553 other assets of the association pledged.

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

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

574 e. Any such pledge or sale of assessments, revenues,  
 575 contract rights or other rights or assets of the association

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

591 f. There shall be no liability on the part of, and no  
 592 cause of action of any nature shall arise against, any member  
 593 insurer or its agents or employees, agents or employees of the  
 594 association, members of the board of directors of the  
 595 association, or the department or its representatives, for any  
 596 action taken by them in the performance of their duties or  
 597 responsibilities under this subsection. Such immunity does not  
 598 apply to actions for breach of any contract or agreement  
 599 pertaining to insurance, or any willful tort.

600 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—



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

604 1. The Legislature finds that private insurers are  
605 unwilling or unable to provide affordable property insurance  
606 coverage in this state to the extent sought and needed. The  
607 absence of affordable property insurance threatens the public  
608 health, safety, and welfare and likewise threatens the economic  
609 health of the state. The state therefore has a compelling public  
610 interest and a public purpose to assist in assuring that  
611 property in the state is insured and that it is insured at  
612 affordable rates so as to facilitate the remediation,  
613 reconstruction, and replacement of damaged or destroyed property  
614 in order to reduce or avoid the negative effects otherwise  
615 resulting to the public health, safety, and welfare, to the  
616 economy of the state, and to the revenues of the state and local  
617 governments which are needed to provide for the public welfare.  
618 It is necessary, therefore, to provide affordable property  
619 insurance to applicants who are in good faith entitled to  
620 procure insurance through the voluntary market but are unable to  
621 do so. The Legislature intends, therefore, that affordable  
622 property insurance be provided and that it continue to be  
623 provided, as long as necessary, through Citizens Property  
624 Insurance Corporation, a government entity that is an integral  
625 part of the state, and that is not a private insurance company.

626 To that end, the corporation shall strive to increase the  
627 availability of affordable property insurance in this state,  
628 while achieving efficiencies and economies, and while providing  
629 service to policyholders, applicants, and agents which is no  
630 less than the quality generally provided in the voluntary  
631 market, for the achievement of the foregoing public purposes.  
632 Because it is essential for this government entity to have the  
633 maximum financial resources to pay claims following a  
634 catastrophic hurricane, it is the intent of the Legislature that  
635 the corporation continue to be an integral part of the state and  
636 that the income of the corporation be exempt from federal income  
637 taxation and that interest on the debt obligations issued by the  
638 corporation be exempt from federal income taxation.

639       2. The Residential Property and Casualty Joint  
640 Underwriting Association originally created by this statute  
641 shall be known as the Citizens Property Insurance Corporation.  
642 The corporation shall provide insurance for residential and  
643 commercial property, for applicants who are entitled, but, in  
644 good faith, are unable to procure insurance through the  
645 voluntary market. The corporation shall operate pursuant to a  
646 plan of operation approved by order of the Financial Services  
647 Commission. The plan is subject to continuous review by the  
648 commission. The commission may, by order, withdraw approval of  
649 all or part of a plan if the commission determines that  
650 conditions have changed since approval was granted and that the

651 purposes of the plan require changes in the plan. For the  
652 purposes of this subsection, residential coverage includes both  
653 personal lines residential coverage, which consists of the type  
654 of coverage provided by homeowner, mobile home owner, dwelling,  
655 tenant, condominium unit owner, and similar policies; and  
656 commercial lines residential coverage, which consists of the  
657 type of coverage provided by condominium association, apartment  
658 building, and similar policies.

659 3. With respect to coverage for personal lines residential  
660 structures:

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

675 ~~b. Effective January 1, 2015, a structure that has a~~

676 ~~dwelling replacement cost of \$900,000 or more, or a single~~  
677 ~~condominium unit that has a combined dwelling and contents~~  
678 ~~replacement cost of \$900,000 or more, is not eligible for~~  
679 ~~coverage by the corporation. Such dwellings insured by the~~  
680 ~~corporation on December 31, 2014, may continue to be covered by~~  
681 ~~the corporation only until the end of the policy term.~~

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

689 ~~a.d.~~ Effective January 1, 2017, a structure that has a  
690 dwelling replacement cost of \$700,000 or more, or a single  
691 condominium unit that has a combined dwelling and contents  
692 replacement cost of \$700,000 or more, is not eligible for  
693 coverage by the corporation. ~~Such dwellings insured by the~~  
694 ~~corporation on December 31, 2016, may continue to be covered by~~  
695 ~~the corporation until the end of the policy term.~~

696 b. The requirements of sub-subparagraph a. ~~sub-~~  
697 ~~subparagraphs b.-d.~~ do not apply in counties where the office  
698 determines there is not a reasonable degree of competition. In  
699 such counties a personal lines residential structure that has a  
700 dwelling replacement cost of less than \$1 million, or a single

701 condominium unit that has a combined dwelling and contents  
702 replacement cost of less than \$1 million, is eligible for  
703 coverage by the corporation.

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

713 5.a. Effective January 1, 2009, a personal lines  
714 residential structure that is located in the "wind-borne debris  
715 region," as defined in s. 1609.2, International Building Code  
716 (2006), and that has an insured value on the structure of  
717 \$750,000 or more is not eligible for coverage by the corporation  
718 unless the structure has opening protections as required under  
719 the Florida Building Code for a newly constructed residential  
720 structure in that area. A residential structure is deemed to  
721 comply with this sub-subparagraph if it has shutters or opening  
722 protections on all openings and if such opening protections  
723 complied with the Florida Building Code at the time they were  
724 installed.

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

726 that is newly constructed, or rebuilt, repaired, restored, or  
727 remodeled to increase the total square footage of finished area  
728 by more than 25 percent, pursuant to a permit applied for after  
729 July 1, 2015, is not eligible for coverage by the corporation if  
730 the structure is seaward of the coastal construction control  
731 line established pursuant to s. 161.053 or is within the Coastal  
732 Barrier Resources System as designated by 16 U.S.C. ss. 3501-  
733 3510.

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

739 (b)1. All insurers authorized to write one or more subject  
740 lines of business in this state are subject to assessment by the  
741 corporation and, for the purposes of this subsection, are  
742 referred to collectively as "assessable insurers." Insurers  
743 writing one or more subject lines of business in this state  
744 pursuant to part VIII of chapter 626 are not assessable  
745 insurers; however, insureds who procure one or more subject  
746 lines of business in this state pursuant to part VIII of chapter  
747 626 are subject to assessment by the corporation and are  
748 referred to collectively as "assessable insureds." An insurer's  
749 assessment liability begins on the first day of the calendar  
750 year following the year in which the insurer was issued a

751 certificate of authority to transact insurance for subject lines  
752 of business in this state and terminates 1 year after the end of  
753 the first calendar year during which the insurer no longer holds  
754 a certificate of authority to transact insurance for subject  
755 lines of business in this state.

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

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

767 ~~b.(II)~~ ~~A commercial lines account for~~ Commercial  
768 residential and commercial nonresidential policies that provide  
769 ~~issued by the corporation which provides~~ coverage for basic  
770 property perils on risks that are not located in areas eligible  
771 for coverage by the Florida Windstorm Underwriting Association  
772 as those areas were defined on January 1, 2002, and for policies  
773 that do not provide coverage for the peril of wind on risks that  
774 are located in such areas; and

775 ~~c.(III)~~ ~~A Coastal account for~~ Personal residential

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



801 ~~account~~. An applicant or insured who is eligible to purchase a  
 802 multiperil policy from the corporation may purchase a multiperil  
 803 policy from an authorized insurer without prejudice to the  
 804 applicant's or insured's eligibility to prospectively purchase a  
 805 policy that provides coverage only for the peril of wind from  
 806 the corporation. An applicant or insured who is eligible for a  
 807 corporation policy that provides coverage only for the peril of  
 808 wind may elect to purchase or retain such policy and also  
 809 purchase or retain coverage excluding wind from an authorized  
 810 insurer without prejudice to the applicant's or insured's  
 811 eligibility to prospectively purchase a policy that provides  
 812 multiperil coverage from the corporation. The following  
 813 policies, which provide coverage only for the peril of wind,  
 814 must also include quota share primary insurance under  
 815 subparagraph (c)2.:

816 (I) Personal residential policies and commercial  
 817 residential and commercial nonresidential property policies that  
 818 provide coverage for the peril of wind on risks that are located  
 819 in areas eligible for coverage by the Florida Windstorm  
 820 Underwriting Association, as those areas were defined on January  
 821 1, 2002;

822 (II) Policies that provide multiperil coverage, if offered  
 823 by the corporation, and policies that provide coverage only for  
 824 the peril of wind for risks located in areas eligible for  
 825 coverage by the Florida Windstorm Underwriting Association, as

826 those areas were defined on January 1, 2002;  
 827 (III) Commercial residential wind-only policies;  
 828 (IV) Commercial residential policies excluding wind, if  
 829 offered by the corporation; and  
 830 (V) Commercial residential multiperil policies on a  
 831 building that was insured by the corporation on June 30, 2014 ~~It~~  
 832 ~~is the goal of the Legislature that there be an overall average~~  
 833 ~~savings of 10 percent or more for a policyholder who currently~~  
 834 ~~has a wind-only policy with the corporation, and an ex-wind~~  
 835 ~~policy with a voluntary insurer or the corporation, and who~~  
 836 ~~obtains a multiperil policy from the corporation. It is the~~  
 837 ~~intent of the Legislature that the offer of multiperil coverage~~  
 838 ~~in the coastal account be made and implemented in a manner that~~  
 839 ~~does not adversely affect the tax-exempt status of the~~  
 840 ~~corporation or creditworthiness of or security for currently~~  
 841 ~~outstanding financing obligations or credit facilities of the~~  
 842 ~~coastal account, the personal lines account, or the commercial~~  
 843 ~~lines account. The coastal account must also include quota share~~  
 844 ~~primary insurance under subparagraph (c)2.~~  
 845  
 846 The area eligible for coverage with the corporation under this  
 847 sub-subparagraph ~~under the coastal account~~ also includes the  
 848 area within Port Canaveral, which is bordered on the south by  
 849 the City of Cape Canaveral, bordered on the west by the Banana  
 850 River, and bordered on the north by Federal Government property.

851       3. With respect to a deficit in the Citizens account:  
 852       a. Upon a determination by the board of governors that the  
 853 Citizens account has a projected deficit, the board shall levy a  
 854 Citizens policyholder surcharge against all policyholders of the  
 855 corporation.  
 856       (I) The surcharge shall be levied as a uniform percentage  
 857 of the premium for the policy of up to 15 percent of such  
 858 premium, which funds shall be used to offset the deficit.  
 859       (II) The surcharge is payable upon cancellation or  
 860 termination of the policy, upon renewal of the policy, or upon  
 861 issuance of a new policy by the corporation within the first 12  
 862 months after the date of the levy or the period of time  
 863 necessary to fully collect the surcharge amount.  
 864       (III) The surcharge is not considered premium and is not  
 865 subject to commissions, fees, or premium taxes. However, failure  
 866 to pay the surcharge shall be treated as failure to pay premium.  
 867       ~~b. The three separate accounts must be maintained as long~~  
 868 ~~as financing obligations entered into by the Florida Windstorm~~  
 869 ~~Underwriting Association or Residential Property and Casualty~~  
 870 ~~Joint Underwriting Association are outstanding, in accordance~~  
 871 ~~with the terms of the corresponding financing documents. If no~~  
 872 ~~such financing obligations remain outstanding or if the~~  
 873 ~~financing documents allow for combining of accounts, the~~  
 874 ~~corporation may consolidate the three separate accounts into a~~  
 875 ~~new account, to be known as the Citizens account, for all~~

876 ~~revenues, assets, liabilities, losses, and expenses of the~~  
877 ~~corporation. The Citizens account, if established by the~~  
878 ~~corporation, is authorized to provide coverage to the same~~  
879 ~~extent as provided under each of the three separate accounts.~~  
880 ~~The authority to provide coverage under the Citizens account is~~  
881 ~~set forth in subparagraph 4. Consistent with this subparagraph~~  
882 ~~and prudent investment policies that minimize the cost of~~  
883 ~~carrying debt, the board shall exercise its best efforts to~~  
884 ~~retire existing debt or obtain the approval of necessary parties~~  
885 ~~to amend the terms of existing debt, so as to structure the most~~  
886 ~~efficient plan for consolidating the three separate accounts~~  
887 ~~into a single account. Once the accounts are combined into one~~  
888 ~~account, this subparagraph and subparagraph 3. shall be replaced~~  
889 ~~in their entirety by subparagraphs 4. and 5.~~

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

900 ~~d. Revenues, assets, liabilities, losses, and expenses not~~

901 ~~attributable to particular accounts shall be prorated among the~~  
 902 ~~accounts.~~

903 ~~e. The Legislature finds that the revenues of the~~  
 904 ~~corporation are revenues that are necessary to meet the~~  
 905 ~~requirements set forth in documents authorizing the issuance of~~  
 906 ~~bonds under this subsection.~~

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

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

910 ~~a. After accounting for the Citizens policyholder~~  
 911 ~~surcharge imposed under sub-subparagraph j., if the remaining~~  
 912 ~~projected deficit incurred in the coastal account in a~~  
 913 ~~particular calendar year:~~

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

919 ~~(II) Exceeds 2 percent of the aggregate statewide direct~~  
 920 ~~written premium for the subject lines of business for the prior~~  
 921 ~~calendar year, the corporation shall levy regular assessments on~~  
 922 ~~assessable insurers under paragraph (q) and on assessable~~  
 923 ~~insureds in an amount equal to the greater of 2 percent of the~~  
 924 ~~projected deficit or 2 percent of the aggregate statewide direct~~  
 925 ~~written premium for the subject lines of business for the prior~~

926 ~~calendar year. Any remaining projected deficit shall be~~  
927 ~~recovered through emergency assessments under sub-subparagraph~~  
928 ~~e.~~

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

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

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

965 ~~c.e.~~ Upon a determination by the board of governors that a  
966 projected deficit in the Citizens ~~an~~ account exceeds the amount  
967 that is expected to be recovered through surcharges ~~regular~~  
968 ~~assessments~~ under sub-subparagraph a., ~~plus the amount that is~~  
969 ~~expected to be recovered through surcharges under sub-~~  
970 ~~subparagraph j.~~, the board, after verification by the office,  
971 shall levy emergency assessments for as many years as necessary  
972 to cover the deficits, to be collected by assessable insurers  
973 and the corporation and collected from assessable insureds upon  
974 issuance or renewal of policies for subject lines of business,  
975 excluding National Flood Insurance Program policies. The amount

976 collected in a particular year must be a uniform percentage of  
 977 that year's direct written premium for subject lines of business  
 978 and the Citizens account ~~all accounts of the corporation,~~  
 979 ~~excluding~~ National Flood Insurance Program policy premiums, as  
 980 annually determined by the board and verified by the office. The  
 981 office shall verify the arithmetic calculations involved in the  
 982 board's determination within 30 days after receipt of the  
 983 information on which the determination was based. The office  
 984 shall notify assessable insurers and the Florida Surplus Lines  
 985 Service Office of the date on which assessable insurers shall  
 986 begin to collect and assessable insureds shall begin to pay such  
 987 assessment. The date must be at least 90 days after the date the  
 988 corporation levies emergency assessments pursuant to this sub-  
 989 subparagraph. Notwithstanding any other ~~provision of~~ law, the  
 990 corporation and each assessable insurer that writes subject  
 991 lines of business shall collect emergency assessments from its  
 992 policyholders without such obligation being affected by any  
 993 credit, limitation, exemption, or deferment. Emergency  
 994 assessments levied by the corporation on assessable insureds  
 995 shall be collected by the surplus lines agent at the time the  
 996 surplus lines agent collects the surplus lines tax required by  
 997 s. 626.932 and paid to the Florida Surplus Lines Service Office  
 998 at the time the surplus lines agent pays the surplus lines tax  
 999 to that office. The emergency assessments collected shall be  
 1000 transferred directly to the corporation on a periodic basis as



1001 determined by the corporation and held by the corporation solely  
 1002 in the Citizens ~~applicable~~ account. The aggregate amount of  
 1003 emergency assessments levied for the Citizens ~~an~~ account in any  
 1004 calendar year may be less than but may not exceed the greater of  
 1005 10 percent of the amount needed to cover the deficit, plus  
 1006 interest, fees, commissions, required reserves, and other costs  
 1007 associated with financing the original deficit, or 10 percent of  
 1008 the aggregate statewide direct written premium for subject lines  
 1009 of business and the Citizens account ~~all accounts~~ of the  
 1010 corporation for the prior year, plus interest, fees,  
 1011 commissions, required reserves, and other costs associated with  
 1012 financing the deficit.

1013 ~~d.f.~~ The corporation may pledge the proceeds of  
 1014 assessments, projected recoveries from the Florida Hurricane  
 1015 Catastrophe Fund, other insurance and reinsurance recoverables,  
 1016 policyholder surcharges and other surcharges, and other funds  
 1017 available to the corporation as the source of revenue for and to  
 1018 secure bonds issued under paragraph (q), bonds or other  
 1019 indebtedness issued under subparagraph (c)3., or lines of credit  
 1020 or other financing mechanisms issued or created under this  
 1021 subsection, or to retire any other debt incurred as a result of  
 1022 deficits or events giving rise to deficits, or in any other way  
 1023 that the board determines will efficiently recover such  
 1024 deficits. The purpose of the lines of credit or other financing  
 1025 mechanisms is to provide additional resources to assist the

1026 corporation in covering claims and expenses attributable to a  
 1027 catastrophe. As used in this subsection, the term "assessments"  
 1028 includes emergency ~~regular~~ assessments under sub-subparagraph c.  
 1029 ~~a. or subparagraph (q)1. and emergency assessments under sub-~~  
 1030 ~~subparagraph e.~~ Emergency assessments collected under sub-  
 1031 subparagraph c. ~~e.~~ are not part of an insurer's rates, are not  
 1032 premium, and are not subject to premium tax, fees, or  
 1033 commissions; however, failure to pay the emergency assessment  
 1034 shall be treated as failure to pay premium. The emergency  
 1035 assessments shall continue as long as any bonds issued or other  
 1036 indebtedness incurred with respect to a deficit for which the  
 1037 assessment was imposed remain outstanding, unless adequate  
 1038 provision has been made for the payment of such bonds or other  
 1039 indebtedness pursuant to the documents governing such bonds or  
 1040 indebtedness.

1041 e.g. As used in this subsection and for purposes of any  
 1042 deficit incurred on or after January 25, 2007, the term "subject  
 1043 lines of business" means insurance written by assessable  
 1044 insurers or procured by assessable insureds for all property and  
 1045 casualty lines of business in this state, but not including  
 1046 workers' compensation or medical malpractice. As used in this  
 1047 sub-subparagraph, the term "property and casualty lines of  
 1048 business" includes all lines of business identified on Form 2,  
 1049 Exhibit of Premiums and Losses, in the annual statement required  
 1050 of authorized insurers under s. 624.424 and any rule adopted

1051 under this section, except for those lines identified as  
 1052 accident and health insurance and except for policies written  
 1053 under the National Flood Insurance Program or the Federal Crop  
 1054 Insurance Program. For purposes of this sub-subparagraph, the  
 1055 term "workers' compensation" includes both workers' compensation  
 1056 insurance and excess workers' compensation insurance.

1057 ~~f.h.~~ The Florida Surplus Lines Service Office shall  
 1058 annually determine ~~annually~~ the aggregate statewide written  
 1059 premium in subject lines of business procured by assessable  
 1060 insureds and report that information to the corporation in a  
 1061 form and at a time the corporation specifies to ensure that the  
 1062 corporation can meet the requirements of this subsection and the  
 1063 corporation's financing obligations.

1064 ~~g.i.~~ The Florida Surplus Lines Service Office shall verify  
 1065 the proper application by surplus lines agents of assessment  
 1066 percentages for ~~regular assessments and~~ emergency assessments  
 1067 levied under this subparagraph on assessable insureds and assist  
 1068 the corporation in ensuring the accurate, timely collection and  
 1069 payment of assessments by surplus lines agents as required by  
 1070 the corporation.

1071 ~~j.~~ ~~Upon determination by the board of governors that an~~  
 1072 ~~account has a projected deficit, the board shall levy a Citizens~~  
 1073 ~~policyholder surcharge against all policyholders of the~~  
 1074 ~~corporation.~~

1075 ~~(I) The surcharge shall be levied as a uniform percentage~~

1076 ~~of the premium for the policy of up to 15 percent of such~~  
 1077 ~~premium, which funds shall be used to offset the deficit.~~

1078 ~~(II) The surcharge is payable upon cancellation or~~  
 1079 ~~termination of the policy, upon renewal of the policy, or upon~~  
 1080 ~~issuance of a new policy by the corporation within the first 12~~  
 1081 ~~months after the date of the levy or the period of time~~  
 1082 ~~necessary to fully collect the surcharge amount.~~

1083 ~~(III) The corporation may not levy any regular assessments~~  
 1084 ~~under paragraph (q) pursuant to sub-subparagraph a. or sub-~~  
 1085 ~~subparagraph b. with respect to a particular year's deficit~~  
 1086 ~~until the corporation has first levied the full amount of the~~  
 1087 ~~surcharge authorized by this sub-subparagraph.~~

1088 ~~(IV) The surcharge is not considered premium and is not~~  
 1089 ~~subject to commissions, fees, or premium taxes. However, failure~~  
 1090 ~~to pay the surcharge shall be treated as failure to pay premium.~~

1091 h.k. If the amount of any assessments or surcharges  
 1092 collected from corporation policyholders, assessable insurers or  
 1093 their policyholders, or assessable insureds exceeds the amount  
 1094 of the deficits, such excess amounts shall be remitted to and  
 1095 retained by the corporation in a reserve to be used by the  
 1096 corporation, as determined by the board of governors and  
 1097 approved by the office, to pay claims or reduce any past,  
 1098 present, or future plan-year deficits or to reduce outstanding  
 1099 debt.

1100 ~~4. The Citizens account, if established by the corporation~~

1101 ~~pursuant to sub-subparagraph 2.b., is authorized to provide:~~

1102       ~~a. Personal residential policies that provide~~

1103 ~~comprehensive, multiperil coverage on risks that are not located~~

1104 ~~in areas eligible for coverage by the Florida Windstorm~~

1105 ~~Underwriting Association, as those areas were defined on January~~

1106 ~~1, 2002, and for policies that do not provide coverage for the~~

1107 ~~peril of wind on risks that are located in such areas;~~

1108       ~~b. Commercial residential and commercial nonresidential~~

1109 ~~policies that provide coverage for basic property perils on~~

1110 ~~risks that are not located in areas eligible for coverage by the~~

1111 ~~Florida Windstorm Underwriting Association, as those areas were~~

1112 ~~defined on January 1, 2002, and for policies that do not provide~~

1113 ~~coverage for the peril of wind on risks that are located in such~~

1114 ~~areas; and~~

1115       ~~e. Personal residential policies and commercial~~

1116 ~~residential and commercial nonresidential property policies that~~

1117 ~~provide coverage for the peril of wind on risks that are located~~

1118 ~~in areas eligible for coverage by the Florida Windstorm~~

1119 ~~Underwriting Association, as those areas were defined on January~~

1120 ~~1, 2002. The corporation may offer policies that provide~~

1121 ~~multiperil coverage and shall offer policies that provide~~

1122 ~~coverage only for the peril of wind for risks located in areas~~

1123 ~~eligible for coverage by the Florida Windstorm Underwriting~~

1124 ~~Association, as those areas were defined on January 1, 2002. The~~

1125 ~~corporation may not offer new commercial residential policies~~

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

1151 ~~must also include quota share primary insurance under~~  
1152 ~~subparagraph (c)2.: Personal residential policies and commercial~~  
1153 ~~residential and commercial nonresidential property policies that~~  
1154 ~~provide coverage for the peril of wind on risks that are located~~  
1155 ~~in areas eligible for coverage by the Florida Windstorm~~  
1156 ~~Underwriting Association, as those areas were defined on January~~  
1157 ~~1, 2002; policies that provide multiperil coverage, if offered~~  
1158 ~~by the corporation, and policies that provide coverage only for~~  
1159 ~~the peril of wind for risks located in areas eligible for~~  
1160 ~~coverage by the Florida Windstorm Underwriting Association, as~~  
1161 ~~those areas were defined on January 1, 2002; commercial~~  
1162 ~~residential wind-only policies; commercial residential policies~~  
1163 ~~excluding wind, if offered by the corporation; and commercial~~  
1164 ~~residential multiperil policies on a building that was insured~~  
1165 ~~by the corporation on June 30, 2014. The area eligible for~~  
1166 ~~coverage with the corporation under this sub-subparagraph~~  
1167 ~~includes the area within Port Canaveral, which is bordered on~~  
1168 ~~the south by the City of Cape Canaveral, bordered on the west by~~  
1169 ~~the Banana River, and bordered on the north by Federal~~  
1170 ~~Government property.~~

1171 ~~5. With respect to a deficit in the Citizens account:~~

1172 ~~a. Upon a determination by the board of governors that the~~  
1173 ~~Citizens account has a projected deficit, the board shall levy a~~  
1174 ~~Citizens policyholder surcharge against all policyholders of the~~  
1175 ~~corporation.~~

1176 ~~(I) The surcharge shall be levied as a uniform percentage~~  
 1177 ~~of the premium for the policy of up to 15 percent of such~~  
 1178 ~~premium, which funds shall be used to offset the deficit.~~

1179 ~~(II) The surcharge is payable upon cancellation or~~  
 1180 ~~termination of the policy, upon renewal of the policy, or upon~~  
 1181 ~~issuance of a new policy by the corporation within the first 12~~  
 1182 ~~months after the date of the levy or the period of time~~  
 1183 ~~necessary to fully collect the surcharge amount.~~

1184 ~~(III) The surcharge is not considered premium and is not~~  
 1185 ~~subject to commissions, fees, or premium taxes. However, failure~~  
 1186 ~~to pay the surcharge shall be treated as failure to pay premium.~~

1187 ~~b. After accounting for the Citizens policyholder~~  
 1188 ~~surcharge imposed under sub-subparagraph a., the remaining~~  
 1189 ~~projected deficit incurred in the Citizens account in a~~  
 1190 ~~particular calendar year shall be recovered through emergency~~  
 1191 ~~assessments under sub-subparagraph c.~~

1192 ~~e. Upon a determination by the board of governors that a~~  
 1193 ~~projected deficit in the Citizens account exceeds the amount~~  
 1194 ~~that is expected to be recovered through surcharges under sub-~~  
 1195 ~~subparagraph a., the board, after verification by the office,~~  
 1196 ~~shall levy emergency assessments for as many years as necessary~~  
 1197 ~~to cover the deficits, to be collected by assessable insurers~~  
 1198 ~~and the corporation and collected from assessable insureds upon~~  
 1199 ~~issuance or renewal of policies for subject lines of business,~~  
 1200 ~~excluding National Flood Insurance Program policies. The amount~~



1201 ~~collected in a particular year must be a uniform percentage of~~  
1202 ~~that year's direct written premium for subject lines of business~~  
1203 ~~and the Citizens account, National Flood Insurance Program~~  
1204 ~~policy premiums, as annually determined by the board and~~  
1205 ~~verified by the office. The office shall verify the arithmetic~~  
1206 ~~calculations involved in the board's determination within 30~~  
1207 ~~days after receipt of the information on which the determination~~  
1208 ~~was based. The office shall notify assessable insurers and the~~  
1209 ~~Florida Surplus Lines Service Office of the date on which~~  
1210 ~~assessable insurers shall begin to collect and assessable~~  
1211 ~~insureds shall begin to pay such assessment. The date must be at~~  
1212 ~~least 90 days after the date the corporation levies emergency~~  
1213 ~~assessments pursuant to this sub-subparagraph. Notwithstanding~~  
1214 ~~any other law, the corporation and each assessable insurer that~~  
1215 ~~writes subject lines of business shall collect emergency~~  
1216 ~~assessments from its policyholders without such obligation being~~  
1217 ~~affected by any credit, limitation, exemption, or deferment.~~  
1218 ~~Emergency assessments levied by the corporation on assessable~~  
1219 ~~insureds shall be collected by the surplus lines agent at the~~  
1220 ~~time the surplus lines agent collects the surplus lines tax~~  
1221 ~~required by s. 626.932 and paid to the Florida Surplus Lines~~  
1222 ~~Service Office at the time the surplus lines agent pays the~~  
1223 ~~surplus lines tax to that office. The emergency assessments~~  
1224 ~~collected shall be transferred directly to the corporation on a~~  
1225 ~~periodic basis as determined by the corporation and held by the~~

1226 ~~corporation solely in the Citizens account. The aggregate amount~~  
1227 ~~of emergency assessments levied for the Citizens account in any~~  
1228 ~~calendar year may be less than, but may not exceed the greater~~  
1229 ~~of, 10 percent of the amount needed to cover the deficit, plus~~  
1230 ~~interest, fees, commissions, required reserves, and other costs~~  
1231 ~~associated with financing the original deficit or 10 percent of~~  
1232 ~~the aggregate statewide direct written premium for subject lines~~  
1233 ~~of business and the Citizens accounts for the prior year, plus~~  
1234 ~~interest, fees, commissions, required reserves, and other costs~~  
1235 ~~associated with financing the deficit.~~

1236 ~~d. The corporation may pledge the proceeds of assessments,~~  
1237 ~~projected recoveries from the Florida Hurricane Catastrophe~~  
1238 ~~Fund, other insurance and reinsurance recoverables, policyholder~~  
1239 ~~surcharges and other surcharges, and other funds available to~~  
1240 ~~the corporation as the source of revenue for and to secure bonds~~  
1241 ~~issued under paragraph (q), bonds or other indebtedness issued~~  
1242 ~~under subparagraph (c)3., or lines of credit or other financing~~  
1243 ~~mechanisms issued or created under this subsection; or to retire~~  
1244 ~~any other debt incurred as a result of deficits or events giving~~  
1245 ~~rise to deficits, or in any other way that the board determines~~  
1246 ~~will efficiently recover such deficits. The purpose of the lines~~  
1247 ~~of credit or other financing mechanisms is to provide additional~~  
1248 ~~resources to assist the corporation in covering claims and~~  
1249 ~~expenses attributable to a catastrophe. As used in this~~  
1250 ~~subsection, the term "assessments" includes emergency~~

1251 ~~assessments under sub-subparagraph c. Emergency assessments~~  
 1252 ~~collected under sub-subparagraph c. are not part of an insurer's~~  
 1253 ~~rates, are not premium, and are not subject to premium tax,~~  
 1254 ~~fees, or commissions; however, failure to pay the emergency~~  
 1255 ~~assessment shall be treated as failure to pay premium. The~~  
 1256 ~~emergency assessments shall continue as long as any bonds issued~~  
 1257 ~~or other indebtedness incurred with respect to a deficit for~~  
 1258 ~~which the assessment was imposed remain outstanding, unless~~  
 1259 ~~adequate provision has been made for the payment of such bonds~~  
 1260 ~~or other indebtedness pursuant to the documents governing such~~  
 1261 ~~bonds or indebtedness.~~

1262 ~~e. As used in this subsection and for purposes of any~~  
 1263 ~~deficit incurred on or after January 25, 2007, the term "subject~~  
 1264 ~~lines of business" means insurance written by assessable~~  
 1265 ~~insurers or procured by assessable insureds for all property and~~  
 1266 ~~casualty lines of business in this state, but not including~~  
 1267 ~~workers' compensation or medical malpractice. As used in this~~  
 1268 ~~sub-subparagraph, the term "property and casualty lines of~~  
 1269 ~~business" includes all lines of business identified on Form 2,~~  
 1270 ~~Exhibit of Premiums and Losses, in the annual statement required~~  
 1271 ~~of authorized insurers under s. 624.424 and any rule adopted~~  
 1272 ~~under this section, except for those lines identified as~~  
 1273 ~~accident and health insurance and except for policies written~~  
 1274 ~~under the National Flood Insurance Program or the Federal Crop~~  
 1275 ~~Insurance Program. For purposes of this sub-subparagraph, the~~

1276 ~~term "workers' compensation" includes both workers' compensation~~  
1277 ~~insurance and excess workers' compensation insurance.~~

1278 ~~f. The Florida Surplus Lines Service Office shall annually~~  
1279 ~~determine the aggregate statewide written premium in subject~~  
1280 ~~lines of business procured by assessable insureds and report~~  
1281 ~~that information to the corporation in a form and at a time the~~  
1282 ~~corporation specifies to ensure that the corporation can meet~~  
1283 ~~the requirements of this subsection and the corporation's~~  
1284 ~~financing obligations.~~

1285 ~~g. The Florida Surplus Lines Service Office shall verify~~  
1286 ~~the proper application by surplus lines agents of assessment~~  
1287 ~~percentages for emergency assessments levied under this~~  
1288 ~~subparagraph on assessable insureds and assist the corporation~~  
1289 ~~in ensuring the accurate, timely collection and payment of~~  
1290 ~~assessments by surplus lines agents as required by the~~  
1291 ~~corporation.~~

1292 ~~h. If the amount of any assessments or surcharges~~  
1293 ~~collected from corporation policyholders, assessable insurers or~~  
1294 ~~their policyholders, or assessable insureds exceeds the amount~~  
1295 ~~of the deficits, such excess amounts shall be remitted to and~~  
1296 ~~retained by the corporation in a reserve to be used by the~~  
1297 ~~corporation, as determined by the board of governors and~~  
1298 ~~approved by the office, to pay claims or reduce any past,~~  
1299 ~~present, or future plan-year deficits or to reduce outstanding~~  
1300 ~~debt.~~

1301 (c) The corporation's plan of operation:

1302 1. Must provide for adoption of residential property and

1303 casualty insurance policy forms and commercial residential and

1304 nonresidential property insurance forms, which must be approved

1305 by the office before use. The corporation shall adopt the

1306 following policy forms:

1307 a. Standard personal lines policy forms that are

1308 comprehensive multiperil policies providing full coverage of a

1309 residential property equivalent to the coverage provided in the

1310 private insurance market under an HO-3, HO-4, or HO-6 policy.

1311 b. Basic personal lines policy forms that are policies

1312 similar to an HO-8 policy or a dwelling fire policy that provide

1313 coverage meeting the requirements of the secondary mortgage

1314 market, but which is more limited than the coverage under a

1315 standard policy.

1316 c. Commercial lines residential and nonresidential policy

1317 forms that are generally similar to the basic perils of full

1318 coverage obtainable for commercial residential structures and

1319 commercial nonresidential structures in the admitted voluntary

1320 market.

1321 d. Personal lines and commercial lines residential

1322 property insurance forms that cover the peril of wind only. The

1323 forms are applicable only to residential properties located in

1324 areas eligible for coverage by the Florida Windstorm

1325 Underwriting Association, as those areas were defined on January

1326 1, 2002.

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

1332 f. The corporation may adopt variations of the policy  
 1333 forms listed in sub-subparagraphs a.-e. which contain more  
 1334 restrictive coverage.

1335 g. The corporation shall offer a basic personal lines  
 1336 policy similar to an HO-8 policy with dwelling repair based on  
 1337 common construction materials and methods.

1338 2. Must provide that the corporation adopt a program in  
 1339 which the corporation and authorized insurers enter into quota  
 1340 share primary insurance agreements for hurricane coverage, as  
 1341 defined in s. 627.4025(2)(a), for eligible risks, and adopt  
 1342 property insurance forms for eligible risks which cover the  
 1343 peril of wind only.

1344 a. As used in this subsection, the term:

1345 (I) "Approved surplus lines insurer" means an eligible  
 1346 surplus lines insurer that:

1347 (A) Is rated "A-" or higher by A.M. Best Company;

1348 (B) Has a personal lines residential risk program that is  
 1349 managed by a Florida resident surplus lines broker; and

1350 (C) Offers coverage to applicants for new coverage from

1351 the corporation or current policyholders of the corporation  
 1352 through a take-out plan approved by the office.

1353 (II) "Eligible risks" means personal lines residential and  
 1354 commercial lines residential risks that meet the underwriting  
 1355 criteria of the corporation and are located in areas that were  
 1356 eligible for coverage by the Florida Windstorm Underwriting  
 1357 Association on January 1, 2002.

1358 (III) "Primary residence" means the dwelling that is the  
 1359 policyholder's primary home or is a rental property that is the  
 1360 primary home of the tenant, and which the policyholder or tenant  
 1361 occupies for more than 9 months of each year.

1362 (IV)-(I) "Quota share primary insurance" means an  
 1363 arrangement in which the primary hurricane coverage of an  
 1364 eligible risk is provided in specified percentages by the  
 1365 corporation and an authorized insurer. The corporation and  
 1366 authorized insurer are each solely responsible for a specified  
 1367 percentage of hurricane coverage of an eligible risk as set  
 1368 forth in a quota share primary insurance agreement between the  
 1369 corporation and an authorized insurer and the insurance  
 1370 contract. The responsibility of the corporation or authorized  
 1371 insurer to pay its specified percentage of hurricane losses of  
 1372 an eligible risk, as set forth in the agreement, may not be  
 1373 altered by the inability of the other party to pay its specified  
 1374 percentage of losses. Eligible risks that are provided hurricane  
 1375 coverage through a quota share primary insurance arrangement

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

1383 ~~(II) "Eligible risks" means personal lines residential and~~  
1384 ~~commercial lines residential risks that meet the underwriting~~  
1385 ~~criteria of the corporation and are located in areas that were~~  
1386 ~~eligible for coverage by the Florida Windstorm Underwriting~~  
1387 ~~Association on January 1, 2002.~~

1388 b. The corporation may enter into quota share primary  
1389 insurance agreements with authorized insurers at corporation  
1390 coverage levels of 90 percent and 50 percent.

1391 c. If the corporation determines that additional coverage  
1392 levels are necessary to maximize participation in quota share  
1393 primary insurance agreements by authorized insurers, the  
1394 corporation may establish additional coverage levels. However,  
1395 the corporation's quota share primary insurance coverage level  
1396 may not exceed 90 percent.

1397 d. Any quota share primary insurance agreement entered  
1398 into between an authorized insurer and the corporation must  
1399 provide for a uniform specified percentage of coverage of  
1400 hurricane losses, by county or territory as set forth by the



1401 corporation board, for all eligible risks of the authorized  
1402 insurer covered under the agreement.

1403 e. Any quota share primary insurance agreement entered  
1404 into between an authorized insurer and the corporation is  
1405 subject to review and approval by the office. However, such  
1406 agreement shall be authorized only as to insurance contracts  
1407 entered into between an authorized insurer and an insured who is  
1408 already insured by the corporation for wind coverage.

1409 f. For all eligible risks covered under quota share  
1410 primary insurance agreements, the exposure and coverage levels  
1411 for both the corporation and authorized insurers shall be  
1412 reported by the corporation to the Florida Hurricane Catastrophe  
1413 Fund. For all policies of eligible risks covered under such  
1414 agreements, the corporation and the authorized insurer must  
1415 maintain complete and accurate records for the purpose of  
1416 exposure and loss reimbursement audits as required by fund  
1417 rules. The corporation and the authorized insurer shall each  
1418 maintain duplicate copies of policy declaration pages and  
1419 supporting claims documents.

1420 g. The corporation board shall establish in its plan of  
1421 operation standards for quota share agreements which ensure that  
1422 there is no discriminatory application among insurers as to the  
1423 terms of the agreements, pricing of the agreements, incentive  
1424 provisions if any, and consideration paid for servicing policies  
1425 or adjusting claims.

1426           h. The quota share primary insurance agreement between the  
1427 corporation and an authorized insurer must set forth the  
1428 specific terms under which coverage is provided, including, but  
1429 not limited to, the sale and servicing of policies issued under  
1430 the agreement by the insurance agent of the authorized insurer  
1431 producing the business, the reporting of information concerning  
1432 eligible risks, the payment of premium to the corporation, and  
1433 arrangements for the adjustment and payment of hurricane claims  
1434 incurred on eligible risks by the claims adjuster and personnel  
1435 of the authorized insurer. Entering into a quota sharing  
1436 insurance agreement between the corporation and an authorized  
1437 insurer is voluntary and at the discretion of the authorized  
1438 insurer.

1439           3. May provide that the corporation may employ or  
1440 otherwise contract with individuals or other entities to provide  
1441 administrative or professional services that may be appropriate  
1442 to effectuate the plan. The corporation may borrow funds by  
1443 issuing bonds or by incurring other indebtedness, and shall have  
1444 other powers reasonably necessary to effectuate the requirements  
1445 of this subsection, including, without limitation, the power to  
1446 issue bonds and incur other indebtedness in order to refinance  
1447 outstanding bonds or other indebtedness. The corporation may  
1448 seek judicial validation of its bonds or other indebtedness  
1449 under chapter 75. The corporation may issue bonds or incur other  
1450 indebtedness, or have bonds issued on its behalf by a unit of

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

1470 4. Must require that the corporation operate subject to  
1471 the supervision and approval of a board of governors consisting  
1472 of nine individuals who are residents of this state and who are  
1473 from different geographical areas of the state, one of whom is  
1474 appointed by the Governor and serves solely to advocate on  
1475 behalf of the consumer. The appointment of a consumer

1476 representative by the Governor is deemed to be within the scope  
1477 of the exemption provided in s. 112.313(7) (b) and is in addition  
1478 to the appointments authorized under sub-subparagraph a.

1479 a. The Governor, the Chief Financial Officer, the  
1480 President of the Senate, and the Speaker of the House of  
1481 Representatives shall each appoint two members of the board. At  
1482 least one of the two members appointed by each appointing  
1483 officer must have demonstrated expertise in insurance and be  
1484 deemed to be within the scope of the exemption provided in s.  
1485 112.313(7) (b). The Chief Financial Officer shall designate one  
1486 of the appointees as chair. All board members serve at the  
1487 pleasure of the appointing officer. All members of the board are  
1488 subject to removal at will by the officers who appointed them.  
1489 All board members, including the chair, must be appointed to  
1490 serve for 3-year terms beginning annually on a date designated  
1491 by the plan. However, for the first term beginning on or after  
1492 July 1, 2009, each appointing officer shall appoint one member  
1493 of the board for a 2-year term and one member for a 3-year term.  
1494 A board vacancy shall be filled for the unexpired term by the  
1495 appointing officer. The Chief Financial Officer shall appoint a  
1496 technical advisory group to provide information and advice to  
1497 the board in connection with the board's duties under this  
1498 subsection. The executive director and senior managers of the  
1499 corporation shall be engaged by the board and serve at the  
1500 pleasure of the board. Any executive director appointed on or

1501 after July 1, 2006, is subject to confirmation by the Senate.  
1502 The executive director is responsible for employing other staff  
1503 as the corporation may require, subject to review and  
1504 concurrence by the board.

1505 b. The board shall create a Market Accountability Advisory  
1506 Committee to assist the corporation in developing awareness of  
1507 its rates and its customer and agent service levels in  
1508 relationship to the voluntary market insurers writing similar  
1509 coverage.

1510 (I) The members of the advisory committee consist of the  
1511 following 11 persons, one of whom must be elected chair by the  
1512 members of the committee: four representatives, one appointed by  
1513 the Florida Association of Insurance Agents, one by the Florida  
1514 Association of Insurance and Financial Advisors, one by the  
1515 Professional Insurance Agents of Florida, and one by the Latin  
1516 American Association of Insurance Agencies; three  
1517 representatives appointed by the insurers with the three highest  
1518 voluntary market share of residential property insurance  
1519 business in the state; one representative from the Office of  
1520 Insurance Regulation; one consumer appointed by the board who is  
1521 insured by the corporation at the time of appointment to the  
1522 committee; one representative appointed by the Florida  
1523 Association of Realtors; and one representative appointed by the  
1524 Florida Bankers Association. All members shall be appointed to  
1525 3-year terms and may serve for consecutive terms.

1526 (II) The committee shall report to the corporation at each  
1527 board meeting on insurance market issues which may include rates  
1528 and rate competition with the voluntary market; service,  
1529 including policy issuance, claims processing, and general  
1530 responsiveness to policyholders, applicants, and agents; and  
1531 matters relating to depopulation.

1532 5. Must provide a procedure for determining the  
1533 eligibility of a risk for coverage, as follows:

1534 a. Subject to s. 627.3517, with respect to personal lines  
1535 residential risks that are primary residences, if the risk is  
1536 offered coverage from an authorized insurer at the insurer's  
1537 approved rate under a standard policy including wind coverage  
1538 or, if consistent with the insurer's underwriting rules as filed  
1539 with the office, a basic policy including wind coverage, for a  
1540 new application to the corporation for coverage, the risk is not  
1541 eligible for any policy issued by the corporation unless the  
1542 premium for coverage from the authorized insurer is more than 20  
1543 percent greater than the premium for comparable coverage from  
1544 the corporation. Whenever an offer of coverage for a personal  
1545 lines residential risk that is a primary residence is received  
1546 for a policyholder of the corporation at renewal from an  
1547 authorized insurer, if the offer is equal to or less than the  
1548 corporation's renewal premium for comparable coverage, the risk  
1549 is not eligible for coverage with the corporation for policies  
1550 that renew before April 1, 2023; for policies that renew on or

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

1571 (I) If the risk accepts an offer of coverage through the  
1572 market assistance plan or through a mechanism established by the  
1573 corporation other than a plan established by s. 627.3518, before  
1574 a policy is issued to the risk by the corporation or during the  
1575 first 30 days of coverage by the corporation, and the producing

1576 agent who submitted the application to the plan or to the  
 1577 corporation is not currently appointed by the insurer, the  
 1578 insurer shall:

1579 (A) Pay to the producing agent of record of the policy for  
 1580 the first year, an amount that is the greater of the insurer's  
 1581 usual and customary commission for the type of policy written or  
 1582 a fee equal to the usual and customary commission of the  
 1583 corporation; or

1584 (B) Offer to allow the producing agent of record of the  
 1585 policy to continue servicing the policy for at least 1 year and  
 1586 offer to pay the agent the greater of the insurer's or the  
 1587 corporation's usual and customary commission for the type of  
 1588 policy written.

1589  
 1590 If the producing agent is unwilling or unable to accept  
 1591 appointment, the new insurer shall pay the agent in accordance  
 1592 with sub-sub-sub-subparagraph (A).

1593 (II) If the corporation enters into a contractual  
 1594 agreement for a take-out plan, the producing agent of record of  
 1595 the corporation policy is entitled to retain any unearned  
 1596 commission on the policy, and the insurer shall:

1597 (A) Pay to the producing agent of record, for the first  
 1598 year, an amount that is the greater of the insurer's usual and  
 1599 customary commission for the type of policy written or a fee  
 1600 equal to the usual and customary commission of the corporation;



1601 or

1602 (B) Offer to allow the producing agent of record to  
1603 continue servicing the policy for at least 1 year and offer to  
1604 pay the agent the greater of the insurer's or the corporation's  
1605 usual and customary commission for the type of policy written.

1606

1607 If the producing agent is unwilling or unable to accept  
1608 appointment, the new insurer shall pay the agent in accordance  
1609 with sub-sub-sub-subparagraph (A).

1610 b. With respect to commercial lines residential risks, for  
1611 a new application to the corporation for coverage, if the risk  
1612 is offered coverage under a policy including wind coverage from  
1613 an authorized insurer at its approved rate, the risk is not  
1614 eligible for a policy issued by the corporation unless the  
1615 premium for coverage from the authorized insurer is more than 20  
1616 percent greater than the premium for comparable coverage from  
1617 the corporation. Whenever an offer of coverage for a commercial  
1618 lines residential risk is received for a policyholder of the  
1619 corporation at renewal from an authorized insurer, the risk is  
1620 not eligible for coverage with the corporation unless the  
1621 premium for coverage from the authorized insurer is more than 20  
1622 percent greater than the corporation's renewal premium for  
1623 comparable coverage. If the risk is not able to obtain any such  
1624 offer, the risk is eligible for a policy including wind coverage  
1625 issued by the corporation. A policyholder removed from the

1626 corporation through an assumption agreement remains eligible for  
1627 coverage from the corporation until the end of the policy term.  
1628 However, any policy removed from the corporation through an  
1629 assumption agreement remains on the corporation's policy forms  
1630 through the end of the policy term.

1631 (I) If the risk accepts an offer of coverage through the  
1632 market assistance plan or through a mechanism established by the  
1633 corporation other than a plan established by s. 627.3518, before  
1634 a policy is issued to the risk by the corporation or during the  
1635 first 30 days of coverage by the corporation, and the producing  
1636 agent who submitted the application to the plan or the  
1637 corporation is not currently appointed by the insurer, the  
1638 insurer shall:

1639 (A) Pay to the producing agent of record of the policy,  
1640 for the first year, an amount that is the greater of the  
1641 insurer's usual and customary commission for the type of policy  
1642 written or a fee equal to the usual and customary commission of  
1643 the corporation; or

1644 (B) Offer to allow the producing agent of record of the  
1645 policy to continue servicing the policy for at least 1 year and  
1646 offer to pay the agent the greater of the insurer's or the  
1647 corporation's usual and customary commission for the type of  
1648 policy written.

1649  
1650 If the producing agent is unwilling or unable to accept

1651 appointment, the new insurer shall pay the agent in accordance  
1652 with sub-sub-sub-subparagraph (A).

1653 (II) If the corporation enters into a contractual  
1654 agreement for a take-out plan, the producing agent of record of  
1655 the corporation policy is entitled to retain any unearned  
1656 commission on the policy, and the insurer shall:

1657 (A) Pay to the producing agent of record, for the first  
1658 year, an amount that is the greater of the insurer's usual and  
1659 customary commission for the type of policy written or a fee  
1660 equal to the usual and customary commission of the corporation;  
1661 or

1662 (B) Offer to allow the producing agent of record to  
1663 continue servicing the policy for at least 1 year and offer to  
1664 pay the agent the greater of the insurer's or the corporation's  
1665 usual and customary commission for the type of policy written.  
1666

1667 If the producing agent is unwilling or unable to accept  
1668 appointment, the new insurer shall pay the agent in accordance  
1669 with sub-sub-sub-subparagraph (A).

1670 c. For purposes of determining comparable coverage under  
1671 sub-subparagraphs a. and b., the comparison must be based on  
1672 those forms and coverages that are reasonably comparable. The  
1673 corporation may rely on a determination of comparable coverage  
1674 and premium made by the producing agent who submits the  
1675 application to the corporation, made in the agent's capacity as

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

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

1712 d. If the risk could not be insured under a standard  
1713 policy including wind coverage regardless of market conditions,  
1714 the risk is eligible for a basic policy including wind coverage  
1715 unless rejected under subparagraph 8. The corporation shall  
1716 determine the type of policy to be provided on the basis of  
1717 objective standards specified in the underwriting manual and  
1718 based on generally accepted underwriting practices. A  
1719 policyholder removed from the corporation through an assumption  
1720 agreement does not remain eligible for coverage from the  
1721 corporation after the end of the policy term for a period.  
1722 However, any policy removed from the corporation through an  
1723 assumption agreement remains on the corporation's policy forms  
1724 through the end of the policy term.

1725 (I) If the risk accepts an offer of coverage through the

1726 market assistance plan or through a mechanism established by the  
 1727 corporation other than a plan established by s. 627.3518, before  
 1728 a policy is issued to the risk by the corporation or during the  
 1729 first 30 days of coverage by the corporation, and the producing  
 1730 agent who submitted the application to the plan or to the  
 1731 corporation is not currently appointed by the insurer, the  
 1732 insurer shall:

1733 (A) Pay to the producing agent of record of the policy,  
 1734 for the first year, an amount that is the greater of the  
 1735 insurer's usual and customary commission for the type of policy  
 1736 written or a fee equal to the usual and customary commission of  
 1737 the corporation; or

1738 (B) Offer to allow the producing agent of record of the  
 1739 policy to continue servicing the policy for at least 1 year and  
 1740 offer to pay the agent the greater of the insurer's or the  
 1741 corporation's usual and customary commission for the type of  
 1742 policy written.

1743  
 1744 If the producing agent is unwilling or unable to accept  
 1745 appointment, the new insurer shall pay the agent in accordance  
 1746 with sub-sub-sub-subparagraph (A).

1747 (II) If the corporation enters into a contractual  
 1748 agreement for a take-out plan, the producing agent of record of  
 1749 the corporation policy is entitled to retain any unearned  
 1750 commission on the policy, and the insurer shall:

1751 (A) Pay to the producing agent of record, for the first  
 1752 year, an amount that is the greater of the insurer's usual and  
 1753 customary commission for the type of policy written or a fee  
 1754 equal to the usual and customary commission of the corporation;  
 1755 or

1756 (B) Offer to allow the producing agent of record to  
 1757 continue servicing the policy for at least 1 year and offer to  
 1758 pay the agent the greater of the insurer's or the corporation's  
 1759 usual and customary commission for the type of policy written.

1760  
 1761 If the producing agent is unwilling or unable to accept  
 1762 appointment, the new insurer shall pay the agent in accordance  
 1763 with sub-sub-sub-subparagraph (A).

1764 6. Must include rules for classifications of risks and  
 1765 rates.

1766 7. Must provide that if premium and investment income:  
 1767 ~~a.~~ for the Citizens ~~an~~ account which are attributable to a  
 1768 particular calendar year are in excess of projected losses and  
 1769 expenses for the Citizens account attributable to that year,  
 1770 such excess shall be held in surplus in the Citizens account.  
 1771 Such surplus must be available to defray deficits in the  
 1772 Citizens ~~that~~ account as to future years and used for that  
 1773 purpose before assessing assessable insurers and assessable  
 1774 insureds as to any calendar year; ~~or~~

1775 ~~b. For the Citizens account, if established by the~~

1776 ~~corporation, which are attributable to a particular calendar~~  
1777 ~~year are in excess of projected losses and expenses for the~~  
1778 ~~Citizens account attributable to that year, such excess shall be~~  
1779 ~~held in surplus in the Citizens account. Such surplus must be~~  
1780 ~~available to defray deficits in the Citizens account as to~~  
1781 ~~future years and used for that purpose before assessing~~  
1782 ~~assessable insurers and assessable insureds as to any calendar~~  
1783 ~~year.~~

1784       8. Must provide objective criteria and procedures to be  
1785 uniformly applied to all applicants in determining whether an  
1786 individual risk is so hazardous as to be uninsurable. In making  
1787 this determination and in establishing the criteria and  
1788 procedures, the following must be considered:

1789       a. Whether the likelihood of a loss for the individual  
1790 risk is substantially higher than for other risks of the same  
1791 class; and

1792       b. Whether the uncertainty associated with the individual  
1793 risk is such that an appropriate premium cannot be determined.

1794  
1795 The acceptance or rejection of a risk by the corporation shall  
1796 be construed as the private placement of insurance, and the  
1797 provisions of chapter 120 do not apply.

1798       9. Must provide that the corporation make its best efforts  
1799 to procure catastrophe reinsurance at reasonable rates, to cover  
1800 its projected 100-year probable maximum loss as determined by



1801 the board of governors. If catastrophe reinsurance is not  
 1802 available at reasonable rates, the corporation need not purchase  
 1803 it, but the corporation shall include the costs of reinsurance  
 1804 to cover its projected 100-year probable maximum loss in its  
 1805 rate calculations even if it does not purchase catastrophe  
 1806 reinsurance.

1807       10. ~~The policies issued by the corporation~~ Must provide in  
 1808 the policies issued by the corporation that if the corporation  
 1809 or the market assistance plan obtains an offer from an  
 1810 authorized insurer to cover the risk at its approved rates, the  
 1811 risk is no longer eligible for renewal through the corporation,  
 1812 except as otherwise provided in this subsection.

1813       11. ~~Corporation policies and applications~~ Must include in  
 1814 the corporation policies and applications a notice that the  
 1815 corporation policy could, under this section, be replaced with a  
 1816 policy issued by an authorized insurer which does not provide  
 1817 coverage identical to the coverage provided by the corporation.  
 1818 The notice must also specify that acceptance of corporation  
 1819 coverage creates a conclusive presumption that the applicant or  
 1820 policyholder is aware of this potential.

1821       12. May establish, subject to approval by the office,  
 1822 different eligibility requirements and operational procedures  
 1823 for any line or type of coverage for any specified county or  
 1824 area if the board determines that such changes are justified due  
 1825 to the voluntary market being sufficiently stable and

1826 competitive in such area or for such line or type of coverage  
 1827 and that consumers who, in good faith, are unable to obtain  
 1828 insurance through the voluntary market through ordinary methods  
 1829 continue to have access to coverage from the corporation. If  
 1830 coverage is sought in connection with a real property transfer,  
 1831 the requirements and procedures may not provide an effective  
 1832 date of coverage later than the date of the closing of the  
 1833 transfer as established by the transferor, the transferee, and,  
 1834 if applicable, the lender.

1835 ~~13. Must provide that:~~

1836 ~~a. With respect to the coastal account, any assessable~~  
 1837 ~~insurer with a surplus as to policyholders of \$25 million or~~  
 1838 ~~less writing 25 percent or more of its total countrywide~~  
 1839 ~~property insurance premiums in this state may petition the~~  
 1840 ~~office, within the first 90 days of each calendar year, to~~  
 1841 ~~qualify as a limited apportionment company. A regular assessment~~  
 1842 ~~levied by the corporation on a limited apportionment company for~~  
 1843 ~~a deficit incurred by the corporation for the coastal account~~  
 1844 ~~may be paid to the corporation on a monthly basis as the~~  
 1845 ~~assessments are collected by the limited apportionment company~~  
 1846 ~~from its insureds, but a limited apportionment company must~~  
 1847 ~~begin collecting the regular assessments not later than 90 days~~  
 1848 ~~after the regular assessments are levied by the corporation, and~~  
 1849 ~~the regular assessments must be paid in full within 15 months~~  
 1850 ~~after being levied by the corporation. A limited apportionment~~

1851 ~~company shall collect from its policyholders any emergency~~  
1852 ~~assessment imposed under sub-subparagraph (b) 3.e. The plan must~~  
1853 ~~provide that, if the office determines that any regular~~  
1854 ~~assessment will result in an impairment of the surplus of a~~  
1855 ~~limited apportionment company, the office may direct that all or~~  
1856 ~~part of such assessment be deferred as provided in subparagraph~~  
1857 ~~(q)4. However, an emergency assessment to be collected from~~  
1858 ~~policyholders under sub-subparagraph (b) 3.e. may not be limited~~  
1859 ~~or deferred; or~~

1860 ~~b. With respect to the Citizens account, if established by~~  
1861 ~~the corporation pursuant to sub-subparagraph (b) 2.b., any~~  
1862 ~~assessable insurer with a surplus as to policyholders of \$25~~  
1863 ~~million or less and writing 25 percent or more of its total~~  
1864 ~~countrywide property insurance premiums in this state may~~  
1865 ~~petition the office, within the first 90 days of each calendar~~  
1866 ~~year, to qualify as a limited apportionment company. A limited~~  
1867 ~~apportionment company shall collect from its policyholders any~~  
1868 ~~emergency assessment imposed under sub-subparagraph (b) 5.c. An~~  
1869 ~~emergency assessment to be collected from policyholders under~~  
1870 ~~sub-subparagraph (b) 5.c. may not be limited or deferred.~~

1871 13.14. Must provide that the corporation appoint as its  
1872 licensed agents only those agents who throughout such  
1873 appointments also hold an appointment as defined in s. 626.015  
1874 by at least three insurers ~~an insurer~~ who are ~~is~~ authorized to  
1875 write and are ~~is~~ actually writing or renewing personal lines

1876 residential property coverage, commercial residential property  
 1877 coverage, or commercial nonresidential property coverage within  
 1878 the state.

1879 ~~14.15.~~ Must provide a premium payment plan option to its  
 1880 policyholders which, at a minimum, allows for quarterly and  
 1881 semiannual payment of premiums. A monthly payment plan may, but  
 1882 is not required to, be offered.

1883 ~~15.16.~~ Must limit coverage on mobile homes or manufactured  
 1884 homes built before 1994 to actual cash value of the dwelling  
 1885 rather than replacement costs of the dwelling.

1886 ~~16.17.~~ Must provide coverage for manufactured or mobile  
 1887 home dwellings. Such coverage must also include the following  
 1888 attached structures:

1889 a. Screened enclosures that are aluminum framed or  
 1890 screened enclosures that are not covered by the same or  
 1891 substantially the same materials as those of the primary  
 1892 dwelling;

1893 b. Carports that are aluminum or carports that are not  
 1894 covered by the same or substantially the same materials as those  
 1895 of the primary dwelling; and

1896 c. Patios that have a roof covering that is constructed of  
 1897 materials that are not the same or substantially the same  
 1898 materials as those of the primary dwelling.

1899  
 1900 The corporation shall make available a policy for mobile homes

1901 or manufactured homes for a minimum insured value of at least  
 1902 \$3,000.

1903 ~~17.18.~~ May provide such limits of coverage as the board  
 1904 determines, consistent with the requirements of this subsection.

1905 ~~18.19.~~ May require commercial property to meet specified  
 1906 hurricane mitigation construction features as a condition of  
 1907 eligibility for coverage.

1908 ~~19.20.~~ Must provide that new or renewal policies issued by  
 1909 the corporation on or after January 1, 2012, which cover  
 1910 sinkhole loss do not include coverage for any loss to  
 1911 appurtenant structures, driveways, sidewalks, decks, or patios  
 1912 that are directly or indirectly caused by sinkhole activity. The  
 1913 corporation shall exclude such coverage using a notice of  
 1914 coverage change, which may be included with the policy renewal,  
 1915 and not by issuance of a notice of nonrenewal of the excluded  
 1916 coverage upon renewal of the current policy.

1917 ~~20.a.21.a. As of January 1, 2012, unless the Citizens~~  
 1918 ~~account has been established pursuant to sub-subparagraph~~  
 1919 ~~(b)2.b.,~~ Must require that the agent obtain from an applicant  
 1920 for coverage from the corporation the following ~~an~~  
 1921 acknowledgment signed by the applicant, which includes, at a  
 1922 minimum, the following statement:

1923 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE

1924 AND ASSESSMENT LIABILITY:

- 1925 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE

1926 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A  
 1927 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,  
 1928 MY POLICY COULD BE SUBJECT TO SURCHARGES AND ASSESSMENTS, WHICH  
 1929 WILL BE DUE AND PAYABLE UPON RENEWAL, CANCELLATION, OR  
 1930 TERMINATION OF THE POLICY, AND THAT THE SURCHARGES AND  
 1931 ASSESSMENTS COULD BE AS HIGH AS 25 ~~45~~ PERCENT OF MY PREMIUM, OR  
 1932 A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA LEGISLATURE.

1933 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER  
 1934 SURCHARGE, WHICH COULD BE AS HIGH AS 15 ~~45~~ PERCENT OF MY  
 1935 PREMIUM, BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND  
 1936 THAT TO BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY  
 1937 TO OBTAIN PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR  
 1938 RENEWING COVERAGE WITH CITIZENS. I UNDERSTAND THAT PRIVATE  
 1939 MARKET INSURANCE RATES ARE REGULATED AND APPROVED BY THE STATE.

1940 3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY  
 1941 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER  
 1942 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE  
 1943 FLORIDA LEGISLATURE.

1944 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE  
 1945 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE  
 1946 STATE OF FLORIDA.

1947 ~~b. The corporation must require, if it has established the~~  
 1948 ~~Citizens account pursuant to sub-subparagraph (b)2.b., that the~~  
 1949 ~~agent obtain from an applicant for coverage from the corporation~~  
 1950 ~~the following acknowledgment signed by the applicant, which~~

1951 ~~includes, at a minimum, the following statement:~~

1952 ~~ACKNOWLEDGMENT OF POTENTIAL SURCHARGE~~

1953 ~~AND ASSESSMENT LIABILITY:~~

1954 ~~1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE~~  
 1955 ~~CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A~~  
 1956 ~~DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,~~  
 1957 ~~MY POLICY COULD BE SUBJECT TO SURCHARGES AND ASSESSMENTS, WHICH~~  
 1958 ~~WILL BE DUE AND PAYABLE UPON RENEWAL, CANCELLATION, OR~~  
 1959 ~~TERMINATION OF THE POLICY, AND THAT THE SURCHARGES AND~~  
 1960 ~~ASSESSMENTS COULD BE AS HIGH AS 25 PERCENT OF MY PREMIUM, OR A~~  
 1961 ~~DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA LEGISLATURE.~~

1962 ~~2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER~~  
 1963 ~~SURCHARGE, WHICH COULD BE AS HIGH AS 15 PERCENT OF MY PREMIUM,~~  
 1964 ~~BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO~~  
 1965 ~~BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN~~  
 1966 ~~PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE~~  
 1967 ~~WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES~~  
 1968 ~~ARE REGULATED AND APPROVED BY THE STATE.~~

1969 ~~3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY~~  
 1970 ~~ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER~~  
 1971 ~~INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE~~  
 1972 ~~FLORIDA LEGISLATURE.~~

1973 ~~4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE~~  
 1974 ~~CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE~~  
 1975 ~~STATE OF FLORIDA.~~

1976            b.e. The corporation shall maintain, in electronic format  
 1977 or otherwise, a copy of the applicant's signed acknowledgment  
 1978 and provide a copy of the statement to the policyholder as part  
 1979 of the first renewal after the effective date of sub-  
 1980 subparagraph a. ~~or sub-subparagraph b., as applicable.~~

1981            c.d. The signed acknowledgment form creates a conclusive  
 1982 presumption that the policyholder understood and accepted his or  
 1983 her potential surcharge and assessment liability as a  
 1984 policyholder of the corporation.

1985            (d)1. All prospective employees for senior management  
 1986 positions, as defined by the plan of operation, are subject to  
 1987 background checks as a prerequisite for employment. The office  
 1988 shall conduct the background checks pursuant to ss. 624.34,  
 1989 624.404(3), and 628.261.

1990            2. On or before July 1 of each year, employees of the  
 1991 corporation must sign and submit a statement attesting that they  
 1992 do not have a conflict of interest, as defined in part III of  
 1993 chapter 112. As a condition of employment, all prospective  
 1994 employees must sign and submit to the corporation a conflict-of-  
 1995 interest statement.

1996            3. The executive director, senior managers, and members of  
 1997 the board of governors are subject to part III of chapter 112,  
 1998 including, but not limited to, the code of ethics and public  
 1999 disclosure and reporting of financial interests, pursuant to s.  
 2000 112.3145. For purposes of applying part III of chapter 112 to



2001 activities of the executive director, senior managers, and  
 2002 members of the board of governors, those persons shall be  
 2003 considered public officers or employees and the corporation  
 2004 shall be considered their agency. Notwithstanding s.  
 2005 112.3143(2), a board member may not vote on any measure that  
 2006 would inure to his or her special private gain or loss; that he  
 2007 or she knows would inure to the special private gain or loss of  
 2008 any principal by whom he or she is retained or to the parent  
 2009 organization or subsidiary of a corporate principal by which he  
 2010 or she is retained, other than an agency as defined in s.  
 2011 112.312; or that he or she knows would inure to the special  
 2012 private gain or loss of a relative or business associate of the  
 2013 public officer. Before the vote is taken, such member shall  
 2014 publicly state to the assembly the nature of his or her interest  
 2015 in the matter from which he or she is abstaining from voting  
 2016 and, within 15 days after the vote occurs, disclose the nature  
 2017 of his or her interest as a public record in a memorandum filed  
 2018 with the person responsible for recording the minutes of the  
 2019 meeting, who shall incorporate the memorandum in the minutes.  
 2020 Senior managers and board members are also required to file such  
 2021 disclosures with the Commission on Ethics and the Office of  
 2022 Insurance Regulation. The executive director of the corporation  
 2023 or his or her designee shall notify each existing and newly  
 2024 appointed member of the board of governors and senior managers  
 2025 of their duty to comply with the reporting requirements of part

2026 III of chapter 112. At least quarterly, the executive director  
2027 or his or her designee shall submit to the Commission on Ethics  
2028 a list of names of the senior managers and members of the board  
2029 of governors who are subject to the public disclosure  
2030 requirements under s. 112.3145.

2031 4. Notwithstanding s. 112.3148, s. 112.3149, or any other  
2032 provision of law, an employee or board member may not knowingly  
2033 accept, directly or indirectly, any gift or expenditure from a  
2034 person or entity, or an employee or representative of such  
2035 person or entity, which has a contractual relationship with the  
2036 corporation or who is under consideration for a contract. An  
2037 employee or board member who fails to comply with subparagraph  
2038 3. or this subparagraph is subject to penalties provided under  
2039 ss. 112.317 and 112.3173.

2040 5. Any senior manager of the corporation who is employed  
2041 on or after January 1, 2007, regardless of the date of hire, who  
2042 subsequently retires or terminates employment is prohibited from  
2043 representing another person or entity before the corporation for  
2044 2 years after retirement or termination of employment from the  
2045 corporation.

2046 6. The executive director, members of the board of  
2047 governors, and senior managers of the corporation are prohibited  
2048 from having any employment or contractual relationship for 2  
2049 years after retirement from or termination of service to the  
2050 corporation with an insurer that has entered into a take-out

2051 | bonus agreement with the corporation.

2052 |       (e) The corporation is subject to s. 287.057 for the  
 2053 | purchase of commodities and contractual services except as  
 2054 | otherwise provided in this paragraph. Services provided by  
 2055 | tradepersons or technical experts to assist a licensed adjuster  
 2056 | in the evaluation of individual claims are not subject to the  
 2057 | procurement requirements of this section. Additionally, the  
 2058 | procurement of financial services providers and underwriters  
 2059 | must be made pursuant to s. 627.3513. Contracts for goods or  
 2060 | services valued at or more than \$100,000 are subject to approval  
 2061 | by the board.

2062 |       1. The corporation is an agency for purposes of s.  
 2063 | 287.057, except that, for purposes of s. 287.057(24), the  
 2064 | corporation is an eligible user.

2065 |       a. The authority of the Department of Management Services  
 2066 | and the Chief Financial Officer under s. 287.057 extends to the  
 2067 | corporation as if the corporation were an agency.

2068 |       b. The executive director of the corporation is the agency  
 2069 | head under s. 287.057, ~~except for resolution of bid protests for~~  
 2070 | ~~which the board would serve as the agency head.~~ The executive  
 2071 | director may assign or appoint a designee to act on his or her  
 2072 | behalf.

2073 |       2. The corporation must provide notice of a decision or  
 2074 | intended decision concerning a solicitation, contract award, or  
 2075 | exceptional purchase by electronic posting. Such notice must

2076 contain the following statement: "Failure to file a protest  
2077 within the time prescribed in this section constitutes a waiver  
2078 of proceedings."

2079       a. A person adversely affected by the corporation's  
2080 decision or intended decision to award a contract pursuant to s.  
2081 287.057(1) or (3)(c) who elects to challenge the decision must  
2082 file a written notice of protest with the executive director of  
2083 the corporation within 72 hours after the corporation posts a  
2084 notice of its decision or intended decision. For a protest of  
2085 the terms, conditions, and specifications contained in a  
2086 solicitation, including provisions governing the methods for  
2087 ranking bids, proposals, replies, awarding contracts, reserving  
2088 rights of further negotiation, or modifying or amending any  
2089 contract, the notice of protest must be filed in writing within  
2090 72 hours after posting the solicitation. Saturdays, Sundays, and  
2091 state holidays are excluded in the computation of the 72-hour  
2092 time period.

2093       b. A formal written protest must be filed within 10 days  
2094 after the date the notice of protest is filed. The formal  
2095 written protest must state with particularity the facts and law  
2096 upon which the protest is based. Upon receipt of a formal  
2097 written protest that has been timely filed, the corporation must  
2098 stop the solicitation or contract award process until the  
2099 subject of the protest is resolved by final board action unless  
2100 the executive director sets forth in writing particular facts

2101 and circumstances that require the continuance of the  
 2102 solicitation or contract award process without delay in order to  
 2103 avoid an immediate and serious danger to the public health,  
 2104 safety, or welfare.

2105 (I) The corporation must provide an opportunity to resolve  
 2106 the protest by mutual agreement between the parties within 7  
 2107 business days after receipt of the formal written protest.

2108 (II) If the subject of a protest is not resolved by mutual  
 2109 agreement within 7 business days, the corporation's board must  
 2110 transmit the protest to the Division of Administrative Hearings  
 2111 and contract with the division to conduct a hearing to determine  
 2112 the merits of the protest and to issue a recommended order. The  
 2113 contract must provide for the corporation to reimburse the  
 2114 division for any costs incurred by the division for court  
 2115 reporters, transcript preparation, travel, facility rental, and  
 2116 other customary hearing costs in the manner set forth in s.  
 2117 120.65(9). The division has jurisdiction to determine the facts  
 2118 and law concerning the protest and to issue a recommended order.  
 2119 The division's rules and procedures apply to these proceedings, ~~+~~  
 2120 ~~the division's applicable bond requirements do not apply.~~ The  
 2121 protest must be heard by the division at a publicly noticed  
 2122 meeting in accordance with procedures established by the  
 2123 division.

2124 c. In a protest of an invitation-to-bid or request-for-  
 2125 proposals procurement, submissions made after the bid or

2126 proposal opening which amend or supplement the bid or proposal  
2127 may not be considered. In protesting an invitation-to-negotiate  
2128 procurement, submissions made after the corporation announces  
2129 its intent to award a contract, reject all replies, or withdraw  
2130 the solicitation that amends or supplements the reply may not be  
2131 considered. Unless otherwise provided by law, the burden of  
2132 proof rests with the party protesting the corporation's action.  
2133 In a competitive-procurement protest, other than a rejection of  
2134 all bids, proposals, or replies, the administrative law judge  
2135 must conduct a de novo proceeding to determine whether the  
2136 corporation's proposed action is contrary to the corporation's  
2137 governing statutes, the corporation's rules or policies, or the  
2138 solicitation specifications. The standard of proof for the  
2139 proceeding is whether the corporation's action was clearly  
2140 erroneous, contrary to competition, arbitrary, or capricious. In  
2141 any bid-protest proceeding contesting an intended corporation  
2142 action to reject all bids, proposals, or replies, the standard  
2143 of review by the board is whether the corporation's intended  
2144 action is illegal, arbitrary, dishonest, or fraudulent.

2145 d. Failure to file a notice of protest or failure to file  
2146 a formal written protest constitutes a waiver of proceedings.

2147 3. The ~~board, acting as~~ agency head or his or her  
2148 designee, shall consider the recommended order of an  
2149 administrative law judge ~~in a public meeting~~ and take final  
2150 action on the protest. Any further legal remedy lies with the

2151 First District Court of Appeal.

2152 (f) The corporation is subject to the provisions of  
2153 chapter 255.

2154 (g) The board shall determine whether it is more cost-  
2155 effective and in the best interests of the corporation to use  
2156 legal services provided by in-house attorneys employed by the  
2157 corporation rather than contracting with outside counsel. In  
2158 making such determination, the board shall document its findings  
2159 and shall consider: the expertise needed; whether time  
2160 commitments exceed in-house staff resources; whether local  
2161 representation is needed; the travel, lodging and other costs  
2162 associated with in-house representation; and such other factors  
2163 that the board determines are relevant.

2164 (h) The corporation may not retain a lobbyist to represent  
2165 it before the legislative branch or executive branch. However,  
2166 full-time employees of the corporation may register as lobbyists  
2167 and represent the corporation before the legislative branch or  
2168 executive branch.

2169 (i)1. The Office of the Internal Auditor is established  
2170 within the corporation to provide a central point for  
2171 coordination of and responsibility for activities that promote  
2172 accountability, integrity, and efficiency to the policyholders  
2173 and to the taxpayers of this state. The internal auditor shall  
2174 be appointed by the board of governors, shall report to and be  
2175 under the general supervision of the board of governors, and is

2176 not subject to supervision by an employee of the corporation.  
2177 Administrative staff and support shall be provided by the  
2178 corporation. The internal auditor shall be appointed without  
2179 regard to political affiliation. It is the duty and  
2180 responsibility of the internal auditor to:

2181 a. Provide direction for, supervise, conduct, and  
2182 coordinate audits, investigations, and management reviews  
2183 relating to the programs and operations of the corporation.

2184 b. Conduct, supervise, or coordinate other activities  
2185 carried out or financed by the corporation for the purpose of  
2186 promoting efficiency in the administration of, or preventing and  
2187 detecting fraud, abuse, and mismanagement in, its programs and  
2188 operations.

2189 c. Submit final audit reports, reviews, or investigative  
2190 reports to the board of governors, the executive director, the  
2191 members of the Financial Services Commission, and the President  
2192 of the Senate and the Speaker of the House of Representatives.

2193 d. Keep the board of governors informed concerning fraud,  
2194 abuses, and internal control deficiencies relating to programs  
2195 and operations administered or financed by the corporation,  
2196 recommend corrective action, and report on the progress made in  
2197 implementing corrective action.

2198 e. Cooperate and coordinate activities with the  
2199 corporation's inspector general.

2200 2. On or before February 15, the internal auditor shall



2201 | prepare an annual report evaluating the effectiveness of the  
 2202 | internal controls of the corporation and providing  
 2203 | recommendations for corrective action, if necessary, and  
 2204 | summarizing the audits, reviews, and investigations conducted by  
 2205 | the office during the preceding fiscal year. The final report  
 2206 | shall be furnished to the board of governors and the executive  
 2207 | director, the President of the Senate, the Speaker of the House  
 2208 | of Representatives, and the Financial Services Commission.

2209 |       (j) All records of the corporation, except as otherwise  
 2210 | provided by law, are subject to the record retention  
 2211 | requirements of s. 119.021.

2212 |       (k)1. The corporation shall establish and maintain a unit  
 2213 | or division to investigate possible fraudulent claims by  
 2214 | insureds or by persons making claims for services or repairs  
 2215 | against policies held by insureds; or it may contract with  
 2216 | others to investigate possible fraudulent claims for services or  
 2217 | repairs against policies held by the corporation pursuant to s.  
 2218 | 626.9891. The corporation must comply with reporting  
 2219 | requirements of s. 626.9891. An employee of the corporation  
 2220 | shall notify the corporation's Office of the Inspector General  
 2221 | and the Division of Investigative and Forensic Services within  
 2222 | 48 hours after having information that would lead a reasonable  
 2223 | person to suspect that fraud may have been committed by any  
 2224 | employee of the corporation.

2225 |       2. The corporation shall establish a unit or division

2226 responsible for receiving and responding to consumer complaints,  
2227 which unit or division is the sole responsibility of a senior  
2228 manager of the corporation.

2229 (l) The office shall conduct a comprehensive market  
2230 conduct examination of the corporation every 2 years to  
2231 determine compliance with its plan of operation and internal  
2232 operations procedures. The first market conduct examination  
2233 report shall be submitted to the President of the Senate and the  
2234 Speaker of the House of Representatives no later than February  
2235 1, 2009. Subsequent reports shall be submitted on or before  
2236 February 1 every 2 years thereafter.

2237 (m) The Auditor General shall conduct an operational audit  
2238 of the corporation every 3 years to evaluate management's  
2239 performance in administering laws, policies, and procedures  
2240 governing the operations of the corporation in an efficient and  
2241 effective manner. The scope of the review shall include, but is  
2242 not limited to, evaluating claims handling, customer service,  
2243 take-out programs and bonuses, financing arrangements,  
2244 procurement of goods and services, internal controls, and the  
2245 internal audit function. The initial audit must be completed by  
2246 February 1, 2009.

2247 (n)1. Rates for coverage provided by the corporation must  
2248 be actuarially sound pursuant to s. 627.062 and not competitive  
2249 with approved rates charged in the admitted voluntary market so  
2250 that the corporation functions as a residual market mechanism to

2251 provide insurance only when insurance cannot be procured in the  
 2252 voluntary market, except as otherwise provided in this  
 2253 paragraph. The office shall provide the corporation such  
 2254 information as would be necessary to determine whether rates are  
 2255 competitive. The corporation shall file its recommended rates  
 2256 with the office at least annually. The corporation shall provide  
 2257 any additional information regarding the rates which the office  
 2258 requires. The office shall consider the recommendations of the  
 2259 board and issue a final order establishing the rates for the  
 2260 corporation within 45 days after the recommended rates are  
 2261 filed. The corporation may not pursue an administrative  
 2262 challenge or judicial review of the final order of the office.

2263 2. In addition to the rates otherwise determined pursuant  
 2264 to this paragraph, the corporation shall impose and collect an  
 2265 amount equal to the premium tax provided in s. 624.509 to  
 2266 augment the financial resources of the corporation.

2267 3. After the public hurricane loss-projection model under  
 2268 s. 627.06281 has been found to be accurate and reliable by the  
 2269 Florida Commission on Hurricane Loss Projection Methodology, the  
 2270 model shall be considered when establishing the windstorm  
 2271 portion of the corporation's rates. The corporation may use the  
 2272 public model results in combination with the results of private  
 2273 models to calculate rates for the windstorm portion of the  
 2274 corporation's rates. This subparagraph does not require or allow  
 2275 the corporation to adopt rates lower than the rates otherwise

2276 required or allowed by this paragraph.

2277 4. The corporation must make a recommended actuarially  
 2278 sound rate filing for each personal and commercial line of  
 2279 business it writes.

2280 5. Notwithstanding the board's recommended rates and the  
 2281 office's final order regarding the corporation's filed rates  
 2282 under subparagraph 1., the corporation shall annually implement  
 2283 a rate increase which, except for sinkhole coverage, does not  
 2284 exceed the following for any single policy issued by the  
 2285 corporation, excluding coverage changes and surcharges:

2286 ~~a.~~ ~~Twelve percent for 2023.~~

2287 a.b. Thirteen percent for 2024.

2288 b.e. Fourteen percent for 2025.

2289 c.d. Fifteen percent for 2026 and all subsequent years.

2290 6. The corporation may also implement an increase to  
 2291 reflect the effect on the corporation of the cash buildup factor  
 2292 pursuant to s. 215.555(5) (b) .

2293 7. The corporation's implementation of rates as prescribed  
 2294 in subparagraphs 5. and 8. shall cease for any line of business  
 2295 written by the corporation upon the corporation's implementation  
 2296 of actuarially sound rates. Thereafter, the corporation shall  
 2297 annually make a recommended actuarially sound rate filing that  
 2298 is not competitive with approved rates in the admitted voluntary  
 2299 market for each commercial and personal line of business the  
 2300 corporation writes.

2301           8. The following new or renewal personal lines policies  
 2302 written on or after November 1, 2023, are not subject to the  
 2303 rate increase limitations in subparagraph 5., but may not be  
 2304 charged more than 50 percent above, and may not be charged ~~nor~~  
 2305 less than, the prior year's established rate for the  
 2306 corporation:

2307           a. Policies that do not cover a primary residence;

2308           b. New policies under which the coverage for the insured  
 2309 risk, before the date of application with the corporation, was  
 2310 last provided by an insurer determined by the office to be  
 2311 unsound or an insurer placed in receivership under chapter 631;  
 2312 or

2313           c. Subsequent renewals of those policies, including the  
 2314 new policies in sub-subparagraph b., under which the coverage  
 2315 for the insured risk, before the date of application with the  
 2316 corporation, was last provided by an insurer determined by the  
 2317 office to be unsound or an insurer placed in receivership under  
 2318 chapter 631.

2319           9. As used in this paragraph, the term "primary residence"  
 2320 means the dwelling that is the policyholder's primary home or is  
 2321 a rental property that is the primary home of the tenant, and  
 2322 which the policyholder or tenant occupies for more than 9 months  
 2323 of each year.

2324           (o) If coverage in ~~an account, or~~ the Citizens account ~~is~~  
 2325 ~~established by the corporation,~~ is deactivated pursuant to

2326 paragraph (p), coverage through the corporation shall be  
 2327 reactivated by order of the office only under one of the  
 2328 following circumstances:

2329 1. If the market assistance plan receives a minimum of 100  
 2330 applications for coverage within a 3-month period, or 200  
 2331 applications for coverage within a 1-year period or less for  
 2332 residential coverage, unless the market assistance plan provides  
 2333 a quotation from authorized ~~admitted~~ carriers at their approved  
 2334 ~~filed~~ rates for at least 90 percent of such applicants. Any  
 2335 market assistance plan application that is rejected because an  
 2336 individual risk is so hazardous as to be uninsurable using the  
 2337 criteria specified in subparagraph (c)8. shall not be included  
 2338 in the minimum percentage calculation provided herein. In the  
 2339 event that there is a legal or administrative challenge to a  
 2340 determination by the office that the conditions of this  
 2341 subparagraph have been met for eligibility for coverage in the  
 2342 corporation, any eligible risk may obtain coverage during the  
 2343 pendency of such challenge.

2344 2. In response to a state of emergency declared by the  
 2345 Governor under s. 252.36, the office may activate coverage by  
 2346 order for the period of the emergency upon a finding by the  
 2347 office that the emergency significantly affects the availability  
 2348 of residential property insurance.

2349 (p)1. The corporation shall file with the office quarterly  
 2350 statements of financial condition, an annual statement of

2351 financial condition, and audited financial statements in the  
 2352 manner prescribed by law. In addition, the corporation shall  
 2353 report to the office monthly on the types, premium, exposure,  
 2354 and distribution by county of its policies in force, and shall  
 2355 submit other reports as the office requires to carry out its  
 2356 oversight of the corporation.

2357 2. The activities of the corporation shall be reviewed at  
 2358 least annually by the office to determine whether coverage shall  
 2359 be deactivated ~~in an account, or~~ in the Citizens account ~~if~~  
 2360 ~~established by the corporation,~~ on the basis that the conditions  
 2361 giving rise to its activation no longer exist.

2362 (q)1. The corporation shall certify to the office its  
 2363 needs for annual assessments as to a particular calendar year,  
 2364 and for any interim assessments that it deems to be necessary to  
 2365 sustain operations as to a particular year pending the receipt  
 2366 of annual assessments. Upon verification, the office shall  
 2367 approve such certification, and the corporation shall levy such  
 2368 annual or interim assessments. Such assessments shall be  
 2369 prorated, if authority to levy exists, as provided in paragraph  
 2370 (b). The corporation shall take all reasonable and prudent steps  
 2371 necessary to collect the amount of assessments due from each  
 2372 assessable insurer, including, if prudent, filing suit to  
 2373 collect the assessments, and the office may provide such  
 2374 assistance to the corporation it deems appropriate. If the  
 2375 corporation is unable to collect an assessment from any

2376 assessable insurer, the uncollected assessments shall be levied  
 2377 as an additional assessment against the assessable insurers and  
 2378 any assessable insurer required to pay an additional assessment  
 2379 as a result of such failure to pay shall have a cause of action  
 2380 against such nonpaying assessable insurer. Assessments shall be  
 2381 included as an appropriate factor in the making of rates. The  
 2382 failure of a surplus lines agent to collect and remit any  
 2383 regular or emergency assessment levied by the corporation is  
 2384 considered to be a violation of s. 626.936 and subjects the  
 2385 surplus lines agent to the penalties provided in that section.

2386         2. The governing body of any unit of local government, any  
 2387 residents of which are insured by the corporation, may issue  
 2388 bonds as defined in s. 125.013 or s. 166.101 from time to time  
 2389 to fund an assistance program, in conjunction with the  
 2390 corporation, for the purpose of defraying deficits of the  
 2391 corporation. In order to avoid needless and indiscriminate  
 2392 proliferation, duplication, and fragmentation of such assistance  
 2393 programs, any unit of local government, any residents of which  
 2394 are insured by the corporation, may provide for the payment of  
 2395 losses, regardless of whether or not the losses occurred within  
 2396 or outside of the territorial jurisdiction of the local  
 2397 government. Revenue bonds under this subparagraph may not be  
 2398 issued until validated pursuant to chapter 75, unless a state of  
 2399 emergency is declared by executive order or proclamation of the  
 2400 Governor pursuant to s. 252.36 making such findings as are



2401 necessary to determine that it is in the best interests of, and  
 2402 necessary for, the protection of the public health, safety, and  
 2403 general welfare of residents of this state and declaring it an  
 2404 essential public purpose to permit certain municipalities or  
 2405 counties to issue such bonds as will permit relief to claimants  
 2406 and policyholders of the corporation. Any such unit of local  
 2407 government may enter into such contracts with the corporation  
 2408 and with any other entity created pursuant to this subsection as  
 2409 are necessary to carry out this paragraph. Any bonds issued  
 2410 under this subparagraph shall be payable from and secured by  
 2411 moneys received by the corporation from emergency assessments  
 2412 under sub-subparagraph (b)3.c. ~~(b)3.e.~~, and assigned and pledged  
 2413 to or on behalf of the unit of local government for the benefit  
 2414 of the holders of such bonds. The funds, credit, property, and  
 2415 taxing power of the state or of the unit of local government  
 2416 shall not be pledged for the payment of such bonds.

2417 3.a. The corporation shall adopt one or more programs  
 2418 subject to approval by the office for the reduction of both new  
 2419 and renewal writings in the corporation. Beginning January 1,  
 2420 2008, any program the corporation adopts for the payment of  
 2421 bonuses to an insurer for each risk the insurer removes from the  
 2422 corporation shall comply with s. 627.3511(2) and may not exceed  
 2423 the amount referenced in s. 627.3511(2) for each risk removed.  
 2424 The corporation may consider any prudent and not unfairly  
 2425 discriminatory approach to reducing corporation writings, and

2426 | may adopt a credit against assessment liability or other  
2427 | liability that provides an incentive for insurers to take risks  
2428 | out of the corporation and to keep risks out of the corporation  
2429 | by maintaining or increasing voluntary writings in counties or  
2430 | areas in which corporation risks are highly concentrated and a  
2431 | program to provide a formula under which an insurer voluntarily  
2432 | taking risks out of the corporation by maintaining or increasing  
2433 | voluntary writings will be relieved wholly or partially from  
2434 | assessments ~~under sub-subparagraph (b)3.a.~~ In addition, in the  
2435 | event policies are taken out by an approved surplus lines  
2436 | insurer, such insurer's assessable insureds may also be relieved  
2437 | wholly or partially from assessments. However, any "take-out  
2438 | bonus" or payment to an insurer must be conditioned on the  
2439 | property being insured for at least 5 years by the insurer,  
2440 | unless canceled or nonrenewed by the policyholder. If the policy  
2441 | is canceled or nonrenewed by the policyholder before the end of  
2442 | the 5-year period, the amount of the take-out bonus must be  
2443 | prorated for the time period the policy was insured. When the  
2444 | corporation enters into a contractual agreement for a take-out  
2445 | plan, the producing agent of record of the corporation policy is  
2446 | entitled to retain any unearned commission on such policy, and  
2447 | the insurer shall either:

2448 |       (I) Pay to the producing agent of record of the policy,  
2449 | for the first year, an amount which is the greater of the  
2450 | insurer's usual and customary commission for the type of policy

2451 written or a policy fee equal to the usual and customary  
 2452 commission of the corporation; or  
 2453 (II) Offer to allow the producing agent of record of the  
 2454 policy to continue servicing the policy for a period of not less  
 2455 than 1 year and offer to pay the agent the insurer's usual and  
 2456 customary commission for the type of policy written. If the  
 2457 producing agent is unwilling or unable to accept appointment by  
 2458 the new insurer, the new insurer shall pay the agent in  
 2459 accordance with sub-sub-subparagraph (I).  
 2460 b. Any credit or exemption from regular assessments  
 2461 adopted under this subparagraph shall last no longer than the 3  
 2462 years following the cancellation or expiration of the policy by  
 2463 the corporation. With the approval of the office, the board may  
 2464 extend such credits for an additional year if the insurer  
 2465 guarantees an additional year of renewability for all policies  
 2466 removed from the corporation, or for 2 additional years if the  
 2467 insurer guarantees 2 additional years of renewability for all  
 2468 policies so removed.  
 2469 c. There shall be no credit, limitation, exemption, or  
 2470 deferment from emergency assessments to be collected from  
 2471 policyholders pursuant to sub-subparagraph (b)3.c. ~~(b)3.e. or~~  
 2472 ~~sub-subparagraph (b)5.e.~~  
 2473 ~~4. The plan shall provide for the deferment, in whole or~~  
 2474 ~~in part, of the assessment of an assessable insurer, other than~~  
 2475 ~~an emergency assessment collected from policyholders pursuant to~~

2476 ~~sub-subparagraph (b) 3.e. or sub-subparagraph (b) 5.c., if the~~  
2477 ~~office finds that payment of the assessment would endanger or~~  
2478 ~~impair the solvency of the insurer. In the event an assessment~~  
2479 ~~against an assessable insurer is deferred in whole or in part,~~  
2480 ~~the amount by which such assessment is deferred may be assessed~~  
2481 ~~against the other assessable insurers in a manner consistent~~  
2482 ~~with the basis for assessments set forth in paragraph (b).~~

2483 4.5. Effective July 1, 2007, in order to evaluate the  
2484 costs and benefits of approved take-out plans, if the  
2485 corporation pays a bonus or other payment to an insurer for an  
2486 approved take-out plan, it shall maintain a record of the  
2487 address or such other identifying information on the property or  
2488 risk removed in order to track if and when the property or risk  
2489 is later insured by the corporation.

2490 5.6. Any policy taken out, assumed, or removed from the  
2491 corporation is, as of the effective date of the take-out,  
2492 assumption, or removal, direct insurance issued by the insurer  
2493 and not by the corporation, even if the corporation continues to  
2494 service the policies. This subparagraph applies to policies of  
2495 the corporation and not policies taken out, assumed, or removed  
2496 from any other entity.

2497 6.7. For a policy taken out, assumed, or removed from the  
2498 corporation, the insurer may, for a period of no more than 3  
2499 years, continue to use any of the corporation's policy forms or  
2500 endorsements that apply to the policy taken out, removed, or

2501 assumed without obtaining approval from the office for use of  
 2502 such policy form or endorsement.

2503 (r) Nothing in this subsection shall be construed to  
 2504 preclude the issuance of residential property insurance coverage  
 2505 pursuant to part VIII of chapter 626.

2506 (s)1. There shall be no liability on the part of, and no  
 2507 cause of action of any nature shall arise against, any  
 2508 assessable insurer or its agents or employees, the corporation  
 2509 or its agents or employees, members of the board of governors or  
 2510 their respective designees at a board meeting, corporation  
 2511 committee members, or the office or its representatives, for any  
 2512 action taken by them in the performance of their duties or  
 2513 responsibilities under this subsection. Such immunity does not  
 2514 apply to:

2515 a. Any of the foregoing persons or entities for any  
 2516 willful tort;

2517 b. The corporation or its producing agents for breach of  
 2518 any contract or agreement pertaining to insurance coverage;

2519 c. The corporation with respect to issuance or payment of  
 2520 debt;

2521 d. Any assessable insurer with respect to any action to  
 2522 enforce an assessable insurer's obligations to the corporation  
 2523 under this subsection; or

2524 e. The corporation in any pending or future action for  
 2525 breach of contract or for benefits under a policy issued by the

2526 corporation.

2527         2. The corporation shall manage its claim employees,  
2528 independent adjusters, and others who handle claims to ensure  
2529 they carry out the corporation's duty to its policyholders to  
2530 handle claims carefully, timely, diligently, and in good faith,  
2531 balanced against the corporation's duty to the state to manage  
2532 its assets responsibly to minimize its assessment potential.

2533         (t) For the purposes of s. 199.183(1), the corporation  
2534 shall be considered a political subdivision of the state and  
2535 shall be exempt from the corporate income tax. The premiums,  
2536 assessments, investment income, and other revenue of the  
2537 corporation are funds received for providing property insurance  
2538 coverage as required by this subsection, paying claims for  
2539 Florida citizens insured by the corporation, securing and  
2540 repaying debt obligations issued by the corporation, and  
2541 conducting all other activities of the corporation, and shall  
2542 not be considered taxes, fees, licenses, or charges for services  
2543 imposed by the Legislature on individuals, businesses, or  
2544 agencies outside state government. Bonds and other debt  
2545 obligations issued by or on behalf of the corporation are not to  
2546 be considered "state bonds" within the meaning of s. 215.58(8).  
2547 The corporation is subject to the procurement provisions of  
2548 chapter 287 as provided in paragraph (e), and policies and  
2549 decisions of the corporation relating to incurring debt, levying  
2550 of assessments and the sale, issuance, continuation, terms and

2551 claims under corporation policies, and all services relating  
2552 thereto, are not subject to the provisions of chapter 120. The  
2553 corporation is not required to obtain or to hold a certificate  
2554 of authority issued by the office, nor is it required to  
2555 participate as a member insurer of the Florida Insurance  
2556 Guaranty Association. However, the corporation is required to  
2557 pay, in the same manner as an authorized insurer, assessments  
2558 levied by the Florida Insurance Guaranty Association. It is the  
2559 intent of the Legislature that the tax exemptions provided in  
2560 this paragraph will augment the financial resources of the  
2561 corporation to better enable the corporation to fulfill its  
2562 public purposes. Any debt obligations issued by the corporation,  
2563 their transfer, and the income therefrom, including any profit  
2564 made on the sale thereof, shall at all times be free from  
2565 taxation of every kind by the state and any political  
2566 subdivision or local unit or other instrumentality thereof;  
2567 however, this exemption does not apply to any tax imposed by  
2568 chapter 220 on interest, income, or profits on debt obligations  
2569 owned by corporations other than the corporation.

2570 (u) Upon a determination by the office that the conditions  
2571 giving rise to the establishment and activation of the  
2572 corporation no longer exist, the corporation is dissolved. Upon  
2573 dissolution, the assets of the corporation shall be applied  
2574 first to pay all debts, liabilities, and obligations of the  
2575 corporation, including the establishment of reasonable reserves

2576 for any contingent liabilities or obligations, and all remaining  
2577 assets of the corporation shall become property of the state and  
2578 shall be deposited in the Florida Hurricane Catastrophe Fund.  
2579 However, no dissolution shall take effect as long as the  
2580 corporation has bonds or other financial obligations outstanding  
2581 unless adequate provision has been made for the payment of the  
2582 bonds or other financial obligations pursuant to the documents  
2583 authorizing the issuance of the bonds or other financial  
2584 obligations.

2585 (v)1. Effective July 1, 2002, policies of the Residential  
2586 Property and Casualty Joint Underwriting Association become  
2587 policies of the corporation. All obligations, rights, assets and  
2588 liabilities of the association, including bonds, note and debt  
2589 obligations, and the financing documents pertaining to them  
2590 become those of the corporation as of July 1, 2002. The  
2591 corporation is not required to issue endorsements or  
2592 certificates of assumption to insureds during the remaining term  
2593 of in-force transferred policies.

2594 2. Effective July 1, 2002, policies of the Florida  
2595 Windstorm Underwriting Association are transferred to the  
2596 corporation and become policies of the corporation. All  
2597 obligations, rights, assets, and liabilities of the association,  
2598 including bonds, note and debt obligations, and the financing  
2599 documents pertaining to them are transferred to and assumed by  
2600 the corporation on July 1, 2002. The corporation is not required



2601 to issue endorsements or certificates of assumption to insureds  
 2602 during the remaining term of in-force transferred policies.

2603 3. The Florida Windstorm Underwriting Association and the  
 2604 Residential Property and Casualty Joint Underwriting Association  
 2605 shall take all actions necessary to further evidence the  
 2606 transfers and provide the documents and instruments of further  
 2607 assurance as may reasonably be requested by the corporation for  
 2608 that purpose. The corporation shall execute assumptions and  
 2609 instruments as the trustees or other parties to the financing  
 2610 documents of the Florida Windstorm Underwriting Association or  
 2611 the Residential Property and Casualty Joint Underwriting  
 2612 Association may reasonably request to further evidence the  
 2613 transfers and assumptions, which transfers and assumptions,  
 2614 however, are effective on the date provided under this paragraph  
 2615 whether or not, and regardless of the date on which, the  
 2616 assumptions or instruments are executed by the corporation.  
 2617 ~~Subject to the relevant financing documents pertaining to their~~  
 2618 ~~outstanding bonds, notes, indebtedness, or other financing~~  
 2619 ~~obligations, the moneys, investments, receivables, choses in~~  
 2620 ~~action, and other intangibles of the Florida Windstorm~~  
 2621 ~~Underwriting Association shall be credited to the coastal~~  
 2622 ~~account of the corporation, and those of the personal lines~~  
 2623 ~~residential coverage account and the commercial lines~~  
 2624 ~~residential coverage account of the Residential Property and~~  
 2625 ~~Casualty Joint Underwriting Association shall be credited to the~~

2626 ~~personal lines account and the commercial lines account,~~  
 2627 ~~respectively, of the corporation.~~

2628 4. Effective July 1, 2002, a new applicant for property  
 2629 insurance coverage who would otherwise have been eligible for  
 2630 coverage in the Florida Windstorm Underwriting Association is  
 2631 eligible for coverage from the corporation as provided in this  
 2632 subsection.

2633 5. The transfer of all policies, obligations, rights,  
 2634 assets, and liabilities from the Florida Windstorm Underwriting  
 2635 Association to the corporation and the renaming of the  
 2636 Residential Property and Casualty Joint Underwriting Association  
 2637 as the corporation does not affect the coverage with respect to  
 2638 covered policies as defined in s. 215.555(2)(c) provided to  
 2639 these entities by the Florida Hurricane Catastrophe Fund. ~~The~~  
 2640 ~~coverage provided by the fund to the Florida Windstorm~~  
 2641 ~~Underwriting Association based on its exposures as of June 30,~~  
 2642 ~~2002, and each June 30 thereafter, unless the corporation has~~  
 2643 ~~established the Citizens account, shall be redesignated as~~  
 2644 ~~coverage for the coastal account of the corporation.~~  
 2645 ~~Notwithstanding any other provision of law, the coverage~~  
 2646 ~~provided by the fund to the Residential Property and Casualty~~  
 2647 ~~Joint Underwriting Association based on its exposures as of June~~  
 2648 ~~30, 2002, and each June 30 thereafter, unless the corporation~~  
 2649 ~~has established the Citizens account, shall be transferred to~~  
 2650 ~~the personal lines account and the commercial lines account of~~

2651 ~~the corporation. Notwithstanding any other provision of law, the~~  
 2652 ~~coastal account, unless the corporation has established the~~  
 2653 ~~Citizens account, shall be treated, for all Florida Hurricane~~  
 2654 ~~Catastrophe Fund purposes, as if it were a separate~~  
 2655 ~~participating insurer with its own exposures, reimbursement~~  
 2656 ~~premium, and loss reimbursement. Likewise, the personal lines~~  
 2657 ~~and commercial lines accounts, unless the corporation has~~  
 2658 ~~established the Citizens account, shall be viewed together, for~~  
 2659 ~~all fund purposes, as if the two accounts were one and represent~~  
 2660 ~~a single, separate participating insurer with its own exposures,~~  
 2661 ~~reimbursement premium, and loss reimbursement. The coverage~~  
 2662 ~~provided by the fund to the corporation shall constitute and~~  
 2663 ~~operate as a full transfer of coverage from the Florida~~  
 2664 ~~Windstorm Underwriting Association and Residential Property and~~  
 2665 ~~Casualty Joint Underwriting Association to the corporation.~~

2666 (w) Notwithstanding any other provision of law:

2667 1. The pledge or sale of, the lien upon, and the security  
 2668 interest in any rights, revenues, or other assets of the  
 2669 corporation created or purported to be created pursuant to any  
 2670 financing documents to secure any bonds or other indebtedness of  
 2671 the corporation shall be and remain valid and enforceable,  
 2672 notwithstanding the commencement of and during the continuation  
 2673 of, and after, any rehabilitation, insolvency, liquidation,  
 2674 bankruptcy, receivership, conservatorship, reorganization, or  
 2675 similar proceeding against the corporation under the laws of

2676 | this state.

2677 |         2. The proceeding does not relieve the corporation of its  
 2678 | obligation, or otherwise affect its ability to perform its  
 2679 | obligation, to continue to collect, or levy and collect,  
 2680 | assessments, policyholder surcharges or other surcharges ~~under~~  
 2681 | ~~sub-subparagraph (b) 3. j.~~, or any other rights, revenues, or  
 2682 | other assets of the corporation pledged pursuant to any  
 2683 | financing documents.

2684 |         3. Each such pledge or sale of, lien upon, and security  
 2685 | interest in, including the priority of such pledge, lien, or  
 2686 | security interest, any such assessments, policyholder surcharges  
 2687 | or other surcharges, or other rights, revenues, or other assets  
 2688 | which are collected, or levied and collected, after the  
 2689 | commencement of and during the pendency of, or after, any such  
 2690 | proceeding shall continue unaffected by such proceeding. As used  
 2691 | in this subsection, the term "financing documents" means any  
 2692 | agreement or agreements, instrument or instruments, or other  
 2693 | document or documents now existing or hereafter created  
 2694 | evidencing any bonds or other indebtedness of the corporation or  
 2695 | pursuant to which any such bonds or other indebtedness has been  
 2696 | or may be issued and pursuant to which any rights, revenues, or  
 2697 | other assets of the corporation are pledged or sold to secure  
 2698 | the repayment of such bonds or indebtedness, together with the  
 2699 | payment of interest on such bonds or such indebtedness, or the  
 2700 | payment of any other obligation or financial product, as defined

2701 in the plan of operation of the corporation related to such  
2702 bonds or indebtedness.

2703 4. Any such pledge or sale of assessments, revenues,  
2704 contract rights, or other rights or assets of the corporation  
2705 shall constitute a lien and security interest, or sale, as the  
2706 case may be, that is immediately effective and attaches to such  
2707 assessments, revenues, or contract rights or other rights or  
2708 assets, whether or not imposed or collected at the time the  
2709 pledge or sale is made. Any such pledge or sale is effective,  
2710 valid, binding, and enforceable against the corporation or other  
2711 entity making such pledge or sale, and valid and binding against  
2712 and superior to any competing claims or obligations owed to any  
2713 other person or entity, including policyholders in this state,  
2714 asserting rights in any such assessments, revenues, or contract  
2715 rights or other rights or assets to the extent set forth in and  
2716 in accordance with the terms of the pledge or sale contained in  
2717 the applicable financing documents, whether or not any such  
2718 person or entity has notice of such pledge or sale and without  
2719 the need for any physical delivery, recordation, filing, or  
2720 other action.

2721 5. As long as the corporation has any bonds outstanding,  
2722 the corporation may not file a voluntary petition under chapter  
2723 9 of the federal Bankruptcy Code or such corresponding chapter  
2724 or sections as may be in effect, from time to time, and a public  
2725 officer or any organization, entity, or other person may not

2726 authorize the corporation to be or become a debtor under chapter  
2727 9 of the federal Bankruptcy Code or such corresponding chapter  
2728 or sections as may be in effect, from time to time, during any  
2729 such period.

2730 6. If ordered by a court of competent jurisdiction, the  
2731 corporation may assume policies or otherwise provide coverage  
2732 for policyholders of an insurer placed in liquidation under  
2733 chapter 631, under such forms, rates, terms, and conditions as  
2734 the corporation deems appropriate, subject to approval by the  
2735 office.

2736 (x)1. The following records of the corporation are  
2737 confidential and exempt from the provisions of s. 119.07(1) and  
2738 s. 24(a), Art. I of the State Constitution:

2739 a. Underwriting files, except that a policyholder or an  
2740 applicant shall have access to his or her own underwriting  
2741 files. Confidential and exempt underwriting file records may  
2742 also be released to other governmental agencies upon written  
2743 request and demonstration of need; such records held by the  
2744 receiving agency remain confidential and exempt as provided  
2745 herein.

2746 b. Claims files, until termination of all litigation and  
2747 settlement of all claims arising out of the same incident,  
2748 although portions of the claims files may remain exempt, as  
2749 otherwise provided by law. Confidential and exempt claims file  
2750 records may be released to other governmental agencies upon

2751 written request and demonstration of need; such records held by  
2752 the receiving agency remain confidential and exempt as provided  
2753 herein.

2754 c. Records obtained or generated by an internal auditor  
2755 pursuant to a routine audit, until the audit is completed, or if  
2756 the audit is conducted as part of an investigation, until the  
2757 investigation is closed or ceases to be active. An investigation  
2758 is considered "active" while the investigation is being  
2759 conducted with a reasonable, good faith belief that it could  
2760 lead to the filing of administrative, civil, or criminal  
2761 proceedings.

2762 d. Matters reasonably encompassed in privileged attorney-  
2763 client communications.

2764 e. Proprietary information licensed to the corporation  
2765 under contract and the contract provides for the confidentiality  
2766 of such proprietary information.

2767 f. All information relating to the medical condition or  
2768 medical status of a corporation employee which is not relevant  
2769 to the employee's capacity to perform his or her duties, except  
2770 as otherwise provided in this paragraph. Information that is  
2771 exempt shall include, but is not limited to, information  
2772 relating to workers' compensation, insurance benefits, and  
2773 retirement or disability benefits.

2774 g. Upon an employee's entrance into the employee  
2775 assistance program, a program to assist any employee who has a

2776 behavioral or medical disorder, substance abuse problem, or  
2777 emotional difficulty that affects the employee's job  
2778 performance, all records relative to that participation shall be  
2779 confidential and exempt from the provisions of s. 119.07(1) and  
2780 s. 24(a), Art. I of the State Constitution, except as otherwise  
2781 provided in s. 112.0455(11).

2782 h. Information relating to negotiations for financing,  
2783 reinsurance, depopulation, or contractual services, until the  
2784 conclusion of the negotiations.

2785 i. Minutes of closed meetings regarding underwriting  
2786 files, and minutes of closed meetings regarding an open claims  
2787 file until termination of all litigation and settlement of all  
2788 claims with regard to that claim, except that information  
2789 otherwise confidential or exempt by law shall be redacted.

2790 2. If an authorized insurer is considering underwriting a  
2791 risk insured by the corporation, relevant underwriting files and  
2792 confidential claims files may be released to the insurer  
2793 provided the insurer agrees in writing, notarized and under  
2794 oath, to maintain the confidentiality of such files. If a file  
2795 is transferred to an insurer, that file is no longer a public  
2796 record because it is not held by an agency subject to the  
2797 provisions of the public records law. Underwriting files and  
2798 confidential claims files may also be released to staff and the  
2799 board of governors of the market assistance plan established  
2800 pursuant to s. 627.3515, who must retain the confidentiality of



2801 such files, except such files may be released to authorized  
2802 insurers that are considering assuming the risks to which the  
2803 files apply, provided the insurer agrees in writing, notarized  
2804 and under oath, to maintain the confidentiality of such files.  
2805 Finally, the corporation or the board or staff of the market  
2806 assistance plan may make the following information obtained from  
2807 underwriting files and confidential claims files available to an  
2808 entity that has obtained a permit to become an authorized  
2809 insurer, a reinsurer that may provide reinsurance under s.  
2810 624.610, a licensed reinsurance broker, a licensed rating  
2811 organization, a modeling company, a licensed surplus lines  
2812 agent, or a licensed general lines insurance agent: name,  
2813 address, and telephone number of the residential property owner  
2814 or insured; location of the risk; rating information; loss  
2815 history; and policy type. The receiving person must retain the  
2816 confidentiality of the information received and may use the  
2817 information only for the purposes of developing a take-out plan  
2818 or a rating plan to be submitted to the office for approval or  
2819 otherwise analyzing the underwriting of a risk or risks insured  
2820 by the corporation on behalf of the private insurance market. A  
2821 licensed surplus lines agent or a licensed general lines  
2822 insurance agent may not use such information for the direct  
2823 solicitation of policyholders.

2824 3. A policyholder who has filed suit against the  
2825 corporation has the right to discover the contents of his or her

2826 own claims file to the same extent that discovery of such  
2827 contents would be available from a private insurer in litigation  
2828 as provided by the Florida Rules of Civil Procedure, the Florida  
2829 Evidence Code, and other applicable law. Pursuant to subpoena, a  
2830 third party has the right to discover the contents of an  
2831 insured's or applicant's underwriting or claims file to the same  
2832 extent that discovery of such contents would be available from a  
2833 private insurer by subpoena as provided by the Florida Rules of  
2834 Civil Procedure, the Florida Evidence Code, and other applicable  
2835 law, and subject to any confidentiality protections requested by  
2836 the corporation and agreed to by the seeking party or ordered by  
2837 the court. The corporation may release confidential underwriting  
2838 and claims file contents and information as it deems necessary  
2839 and appropriate to underwrite or service insurance policies and  
2840 claims, subject to any confidentiality protections deemed  
2841 necessary and appropriate by the corporation.

2842 4. Portions of meetings of the corporation are exempt from  
2843 the provisions of s. 286.011 and s. 24(b), Art. I of the State  
2844 Constitution wherein confidential underwriting files or  
2845 confidential open claims files are discussed. All portions of  
2846 corporation meetings which are closed to the public shall be  
2847 recorded by a court reporter. The court reporter shall record  
2848 the times of commencement and termination of the meeting, all  
2849 discussion and proceedings, the names of all persons present at  
2850 any time, and the names of all persons speaking. No portion of

2851 any closed meeting shall be off the record. Subject to the  
 2852 provisions hereof and s. 119.07(1)(d)-(f), the court reporter's  
 2853 notes of any closed meeting shall be retained by the corporation  
 2854 for a minimum of 5 years. A copy of the transcript, less any  
 2855 exempt matters, of any closed meeting wherein claims are  
 2856 discussed shall become public as to individual claims after  
 2857 settlement of the claim.

2858 (y) It is the intent of the Legislature that the  
 2859 amendments to this subsection enacted in 2002 should, over time,  
 2860 reduce the probable maximum windstorm losses in the residual  
 2861 markets and the potential assessments to be levied on property  
 2862 insurers and policyholders statewide.

2863 (z) In enacting the provisions of this section, the  
 2864 Legislature recognizes that both the Florida Windstorm  
 2865 Underwriting Association and the Residential Property and  
 2866 Casualty Joint Underwriting Association have entered into  
 2867 financing arrangements that obligate each entity to service its  
 2868 debts and maintain the capacity to repay funds secured under  
 2869 these financing arrangements. It is the intent of the  
 2870 Legislature that nothing in this section be construed to  
 2871 compromise, diminish, or interfere with the rights of creditors  
 2872 under such financing arrangements. It is further the intent of  
 2873 the Legislature to preserve the obligations of the Florida  
 2874 Windstorm Underwriting Association and Residential Property and  
 2875 Casualty Joint Underwriting Association with regard to

2876 outstanding financing arrangements, with such obligations  
 2877 passing entirely and unchanged to the corporation and,  
 2878 specifically, to the Citizens ~~applicable~~ account of the  
 2879 corporation. So long as any bonds, notes, indebtedness, or other  
 2880 financing obligations of the Florida Windstorm Underwriting  
 2881 Association or the Residential Property and Casualty Joint  
 2882 Underwriting Association are outstanding, under the terms of the  
 2883 financing documents pertaining to them, the governing board of  
 2884 the corporation shall have and shall exercise the authority to  
 2885 levy, charge, collect, and receive all premiums, assessments,  
 2886 surcharges, charges, revenues, and receipts that the  
 2887 associations had authority to levy, charge, collect, or receive  
 2888 under the provisions of subsection (2) and this subsection,  
 2889 respectively, as they existed on January 1, 2002, to provide  
 2890 moneys, without exercise of the authority provided by this  
 2891 subsection, in at least the amounts, and by the times, as would  
 2892 be provided under those former provisions of subsection (2) or  
 2893 this subsection, respectively, so that the value, amount, and  
 2894 collectability of any assets, revenues, or revenue source  
 2895 pledged or committed to, or any lien thereon securing such  
 2896 outstanding bonds, notes, indebtedness, or other financing  
 2897 obligations will not be diminished, impaired, or adversely  
 2898 affected by the amendments made by this act and to permit  
 2899 compliance with all provisions of financing documents pertaining  
 2900 to such bonds, notes, indebtedness, or other financing

2901 obligations, or the security or credit enhancement for them, and  
2902 any reference in this subsection to bonds, notes, indebtedness,  
2903 financing obligations, or similar obligations, of the  
2904 corporation shall include like instruments or contracts of the  
2905 Florida Windstorm Underwriting Association and the Residential  
2906 Property and Casualty Joint Underwriting Association to the  
2907 extent not inconsistent with the provisions of the financing  
2908 documents pertaining to them.

2909 (aa) Except as otherwise provided in this paragraph, the  
2910 corporation shall require the securing and maintaining of flood  
2911 insurance as a condition of coverage of a personal lines  
2912 residential risk. The insured or applicant must execute a form  
2913 approved by the office affirming that flood insurance is not  
2914 provided by the corporation and that if flood insurance is not  
2915 secured by the applicant or insured from an insurer other than  
2916 the corporation and in addition to coverage by the corporation,  
2917 the risk will not be eligible for coverage by the corporation.  
2918 The corporation may deny coverage of a personal lines  
2919 residential risk to an applicant or insured who refuses to  
2920 secure and maintain flood insurance. The requirement to purchase  
2921 flood insurance shall be implemented as follows:

2922 1. Except as provided in subparagraphs 2. and 3., all  
2923 personal lines residential policyholders must have flood  
2924 coverage in place for policies effective on or after:

2925 a. January 1, 2024, for a structure that has a dwelling

2926 replacement cost of \$600,000 or more.

2927       b. January 1, 2025, for a structure that has a dwelling  
 2928 replacement cost of \$500,000 or more.

2929       c. January 1, 2026, for a structure that has a dwelling  
 2930 replacement cost of \$400,000 or more.

2931       d. January 1, 2027, for all other personal lines  
 2932 residential property insured by the corporation.

2933       2. All personal lines residential policyholders whose  
 2934 property insured by the corporation is located within the  
 2935 special flood hazard area defined by the Federal Emergency  
 2936 Management Agency must have flood coverage in place:

2937       a. At the time of initial policy issuance for all new  
 2938 personal lines residential policies issued by the corporation on  
 2939 or after April 1, 2023.

2940       b. By the time of the policy renewal for all personal  
 2941 lines residential policies renewing on or after July 1, 2023.

2942       3. Policyholders are not required to purchase flood  
 2943 insurance as a condition for maintaining the following policies  
 2944 issued by the corporation:

2945       a. Policies that do not provide coverage for the peril of  
 2946 wind.

2947       b. Policies that provide coverage under a condominium unit  
 2948 owners form.

2949

2950 The flood insurance required under this paragraph must meet, at

2951 a minimum, the dwelling coverage available from the National  
 2952 Flood Insurance Program or the requirements of subparagraphs s.  
 2953 627.715(1)(a)1., 2., and 3.

2954 (bb) A salaried employee of the corporation who performs  
 2955 policy administration services subsequent to the effectuation of  
 2956 a corporation policy is not required to be licensed as an agent  
 2957 under the provisions of s. 626.112.

2958 (cc) There shall be no liability on the part of, and no  
 2959 cause of action of any nature shall arise against, producing  
 2960 agents of record of the corporation or employees of such agents  
 2961 for insolvency of any take-out insurer.

2962 (dd) The assets of the corporation may be invested and  
 2963 managed by the State Board of Administration.

2964 (ee) The office may establish a pilot program to offer  
 2965 optional sinkhole coverage in one or more counties or other  
 2966 territories of the corporation for the purpose of implementing  
 2967 s. 627.706, as amended by s. 30, chapter 2007-1, Laws of  
 2968 Florida. Under the pilot program, the corporation is not  
 2969 required to issue a notice of nonrenewal to exclude sinkhole  
 2970 coverage upon the renewal of existing policies, but may exclude  
 2971 such coverage using a notice of coverage change.

2972 (ff) In establishing replacement costs for coverage on a  
 2973 dwelling insured by the corporation, the corporation must accept  
 2974 a valuation from any of the following sources and must use the  
 2975 lowest valuation as the insured value of the dwelling, excluding

2976 | land value, provided the valuation was completed within the 12  
 2977 | months before the application or renewal date of coverage:

2978 |       1. A replacement cost valuation software that is  
 2979 | specifically designed for use in establishing insurance  
 2980 | replacement costs and that includes an itemized calculation of  
 2981 | the cost of reconstruction;

2982 |       2. A replacement cost valuation prepared by a certified or  
 2983 | licensed real estate appraiser under part II of chapter 475 that  
 2984 | is specifically formulated to establish insurance replacement  
 2985 | cost, rather than market value, and which includes an itemized  
 2986 | calculation of the cost of reconstruction; or

2987 |       3. A replacement cost valuation prepared by a general,  
 2988 | building, or residential contractor licensed under s. 489.113,  
 2989 | or a professional engineer licensed under s. 471.015, which  
 2990 | includes an itemized calculation of the total price of  
 2991 | reconstruction.

2992 |       (gg) The Office of Inspector General is established within  
 2993 | the corporation to provide a central point for coordination of  
 2994 | and responsibility for activities that promote accountability,  
 2995 | integrity, and efficiency. The office shall be headed by an  
 2996 | inspector general, which is a senior management position that  
 2997 | involves planning, coordinating, and performing activities  
 2998 | assigned to and assumed by the inspector general for the  
 2999 | corporation.

3000 |       1. The inspector general shall be appointed by the



3001 Financial Services Commission and may only be removed from  
 3002 office by the commission. The inspector general shall be  
 3003 appointed without regard to political affiliation.

3004       a. At a minimum, the inspector general must possess a  
 3005 bachelor's degree from an accredited college or university and 8  
 3006 years of professional experience related to the duties of an  
 3007 inspector general as described in this paragraph, of which 5  
 3008 years must have been at a supervisory level.

3009       b. The inspector general shall report to, and be under the  
 3010 supervision of, the chair of the board of governors. The  
 3011 executive director or corporation staff may not prevent or  
 3012 prohibit the inspector general from initiating, carrying out, or  
 3013 completing any audit, review, evaluation, study, or  
 3014 investigation.

3015       2. The inspector general shall initiate, direct,  
 3016 coordinate, participate in, and perform audits, reviews,  
 3017 evaluations, studies, and investigations designed to assess  
 3018 management practices; compliance with laws, rules, and policies;  
 3019 and program effectiveness and efficiency. This includes:

3020       a. Conducting internal examinations; investigating  
 3021 allegations of fraud, waste, abuse, malfeasance, mismanagement,  
 3022 employee misconduct, or violations of corporation policies; and  
 3023 conducting any other investigations as directed by the Financial  
 3024 Services Commission or as independently determined.

3025       b. Evaluating and recommending actions regarding security,

3026 the ethical behavior of personnel and vendors, and compliance  
3027 with rules, laws, policies, and personnel matters; and rendering  
3028 ethics opinions.

3029 c. Evaluating personnel and administrative policy  
3030 compliance, management and operational matters, and human  
3031 resources-related matters.

3032 d. Evaluating the application of a corporation code of  
3033 ethics, providing reviews and recommendations on the design and  
3034 content of ethics-related policy training courses, educating  
3035 employees on the code and on appropriate conduct, and checking  
3036 for compliance.

3037 e. Evaluating the activities of the senior management team  
3038 and management's compliance with recommended solutions.

3039 f. Cooperating and coordinating activities with the chief  
3040 of internal audit.

3041 g. Maintaining records of investigations and discipline in  
3042 accordance with established policies, or as otherwise required.

3043 h. Supervising and directing the tasks and assignments of  
3044 the staff assigned to assist with the inspector general's  
3045 projects, including regular review and feedback regarding work  
3046 in progress and providing recommendations regarding relevant  
3047 training and staff development activities.

3048 i. Directing, planning, preparing, and presenting interim  
3049 and final reports and oral briefings which communicate the  
3050 results of studies, reviews, and investigations.

3051 j. Providing the executive director with independent and  
 3052 objective assessments of programs and activities.

3053 k. Completing special projects, assignments, and other  
 3054 duties as requested by the Financial Services Commission.

3055 l. Reporting expeditiously to the Department of Law  
 3056 Enforcement or other law enforcement agencies, as appropriate,  
 3057 whenever the inspector general has reasonable grounds to believe  
 3058 there has been a violation of criminal law.

3059 (hh) The corporation shall prepare a report for each  
 3060 calendar year outlining both the statewide average and county-  
 3061 specific details of the loss ratio attributable to losses that  
 3062 are not catastrophic losses for residential coverage provided by  
 3063 the corporation, which information must be presented to the  
 3064 office and available for public inspection on the Internet  
 3065 website of the corporation by March 1 of the following calendar  
 3066 year.

3067 (ii) The corporation shall revise the programs adopted  
 3068 pursuant to sub-subparagraph (q)3.a. for personal lines  
 3069 residential policies to maximize policyholder options and  
 3070 encourage increased participation by insurers and agents. After  
 3071 January 1, 2017, a policy may not be taken out of the  
 3072 corporation unless the provisions of this paragraph are met.

3073 1. The corporation must publish a periodic schedule of  
 3074 cycles during which an insurer may identify, and notify the  
 3075 corporation of, policies that the insurer is requesting to take

3076 out. A request must include a description of the coverage  
3077 offered and an estimated premium and must be submitted to the  
3078 corporation in a form and manner prescribed by the corporation.

3079 2. The corporation must maintain and make available to the  
3080 agent of record a consolidated list of all insurers requesting  
3081 to take out a policy. The list must include a description of the  
3082 coverage offered and the estimated premium for each take-out  
3083 request.

3084 3. If a policyholder receives a take-out offer from an  
3085 authorized insurer, the risk is no longer eligible for coverage  
3086 with the corporation unless the premium for coverage from the  
3087 authorized insurer is more than 20 percent greater than the  
3088 renewal premium for comparable coverage from the corporation  
3089 pursuant to sub-subparagraph (c)5.c. This subparagraph applies  
3090 to take-out offers that are part of an application to  
3091 participate in depopulation submitted to the office on or after  
3092 January 1, 2023. This subparagraph applies only to a policy that  
3093 covers a primary residence.

3094 4. The corporation must provide written notice to the  
3095 policyholder and the agent of record regarding all insurers  
3096 requesting to take out the policy. The notice must be in a  
3097 format prescribed by the corporation and include, for each take-  
3098 out offer:

- 3099 a. The amount of the estimated premium;  
3100 b. A description of the coverage; and

3101 c. A comparison of the estimated premium and coverage  
 3102 offered by the insurer to the estimated premium and coverage  
 3103 provided by the corporation.

3104 (jj) The corporation's budget allocations for the  
 3105 compensation of all corporation employees and any proposed raise  
 3106 for an individual employee exceeding 10 percent of that  
 3107 employee's current salary must be approved by the board of  
 3108 governors. The corporation must have an overall employee  
 3109 compensation plan approved by the board of governors.

3110 (kk) A corporation policyholder making a claim for water  
 3111 damage against the corporation has the burden of proving that  
 3112 the damage was not caused by flooding.

3113 (ll) The corporation may share its claims data with the  
 3114 National Insurance Crime Bureau, provided that the National  
 3115 Insurance Crime Bureau agrees to maintain the confidentiality of  
 3116 such documents as otherwise provided for in paragraph (x).

3117 (mm)~~(ll)~~1. In addition to any other method of alternative  
 3118 dispute resolution authorized by state law, the corporation may  
 3119 adopt policy forms that provide for the resolution of disputes  
 3120 regarding its claim determinations, including disputes regarding  
 3121 coverage for, or the scope and value of, a claim, in a  
 3122 proceeding before the Division of Administrative Hearings. Any  
 3123 such policies are not subject to s. 627.70154. All proceedings  
 3124 in the Division of Administrative Hearings pursuant to such  
 3125 policies are subject to ss. 57.105 and 768.79 as if filed in the

3126 courts of this state and are not considered chapter 120  
 3127 administrative proceedings. Rule 1.442, Florida Rules of Civil  
 3128 Procedure, applies to any offer served pursuant to s. 768.79,  
 3129 except that, notwithstanding any provision in Rule 1.442,  
 3130 Florida Rules of Civil Procedure, to the contrary, an offer  
 3131 shall not be served earlier than 10 days after filing the  
 3132 request for hearing with the Division of Administrative Hearings  
 3133 and shall not be served later than 10 days before the date set  
 3134 for the final hearing. The administrative law judge in such  
 3135 proceedings shall award attorney fees and other relief pursuant  
 3136 to ss. 57.105 and 768.79. The corporation may not seek, and the  
 3137 office may not approve, a maximum hourly rate for attorney fees.

3138 2. The corporation may contract with the division to  
 3139 conduct proceedings to resolve disputes regarding its claim  
 3140 determinations as may be provided for in the applicable policies  
 3141 of insurance.

3142 (nn) ~~(mm)~~ The corporation may not determine that a risk is  
 3143 ineligible for coverage with the corporation solely because such  
 3144 risk has unrepaired damage caused by a covered loss that is the  
 3145 subject of a claim that has been filed with the Florida  
 3146 Insurance Guaranty Association. This paragraph applies to a risk  
 3147 until the earlier of 24 months after the date the Florida  
 3148 Insurance Guaranty Association began servicing such claim or the  
 3149 Florida Insurance Guaranty Association closes the claim.

3150 (7) PATENTS, COPYRIGHTS, OR TRADEMARKS.-Notwithstanding

3151 any other provision of law to the contrary, the corporation may,  
3152 in its own name:

3153 (a) Perform all things necessary to secure letters of  
3154 patent, copyrights, or trademarks on any work products and  
3155 enforce its rights therein.

3156 (b) License, lease, assign, or otherwise give written  
3157 consent to any person, firm, or other corporation for the  
3158 manufacture or use of patents, copyrights, or trademarks on any  
3159 work products and rights therein on a royalty basis or for such  
3160 other consideration as the corporation deems proper.

3161 (c) Take any action necessary, including legal action, to  
3162 protect the manufacture or use of patents, copyrights, or  
3163 trademarks on any work products and rights therein against  
3164 improper or unlawful use or infringement.

3165 (d) Enforce the collection of any sums due the corporation  
3166 for the manufacture or use of patents, copyrights, or trademarks  
3167 on any work products and rights therein by any other party.

3168 (e) Sell any of the manufacture or use of patents,  
3169 copyrights, or trademarks on any work products and rights  
3170 therein and execute all instruments necessary to consummate any  
3171 such sale.

3172 (f) Do all other acts necessary and proper for the  
3173 execution of powers and duties conferred upon the corporation in  
3174 order to administer this subsection.

3175 Section 2. Effective upon becoming a law, paragraph (aa)

3176 of subsection (6) of section 627.351, Florida Statutes, is  
 3177 amended to read:

3178 627.351 Insurance risk apportionment plans.—

3179 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

3180 (aa) Except as otherwise provided in this paragraph, the  
 3181 corporation shall require the securing and maintaining of flood  
 3182 insurance as a condition of coverage of a personal lines  
 3183 residential risk. The insured or applicant must execute a form  
 3184 approved by the office affirming that flood insurance is not  
 3185 provided by the corporation and that if flood insurance is not  
 3186 secured by the applicant or insured from an insurer other than  
 3187 the corporation and in addition to coverage by the corporation,  
 3188 the risk will not be eligible for coverage by the corporation.  
 3189 The corporation may deny coverage of a personal lines  
 3190 residential risk to an applicant or insured who refuses to  
 3191 secure and maintain flood insurance. The requirement to purchase  
 3192 flood insurance shall be implemented as follows:

3193 1. Except as provided in subparagraphs 2. and 3., all  
 3194 personal lines residential policyholders must have flood  
 3195 coverage in place for policies effective on or after:

3196 a. January 1, 2024, for a structure that has a dwelling  
 3197 replacement cost of \$600,000 or more.

3198 b. January 1, 2025, for a structure that has a dwelling  
 3199 replacement cost of \$500,000 or more.

3200 c. January 1, 2026, for a structure that has a dwelling



3201 replacement cost of \$400,000 or more.

3202       d. January 1, 2027, for all other personal lines

3203 residential property insured by the corporation.

3204       2. All personal lines residential policyholders whose

3205 property insured by the corporation is located within the

3206 special flood hazard area defined by the Federal Emergency

3207 Management Agency must have flood coverage in place:

3208       a. At the time of initial policy issuance for all new

3209 personal lines residential policies issued by the corporation on

3210 or after April 1, 2023.

3211       b. By the time of the policy renewal for all personal

3212 lines residential policies renewing on or after July 1, 2023.

3213       3. Policyholders are not required to purchase flood

3214 insurance as a condition for maintaining the following policies

3215 issued by the corporation:

3216       a. Policies that do not provide coverage for the peril of

3217 wind.

3218       b. Policies that provide coverage under a condominium unit

3219 owners form.

3220

3221 The flood insurance required under this paragraph must meet, at

3222 a minimum, the dwelling coverage available from the National

3223 Flood Insurance Program or the requirements of subparagraphs s.

3224 627.715(1) (a)1., 2., and 3.

3225       Section 3. Subsections (3) and (5) and paragraphs (d),

3226 (e), and (f) of subsection (6) of section 627.3511, Florida  
 3227 Statutes, are amended to read:

3228 627.3511 Depopulation of Citizens Property Insurance  
 3229 Corporation.—

3230 (3) EXEMPTION FROM DEFICIT ASSESSMENTS.—

3231 ~~(a) The calculation of an insurer's assessment liability~~  
 3232 ~~under s. 627.351(6)(b)3.a. shall, for an insurer that in any~~  
 3233 ~~calendar year removes 50,000 or more risks from the Citizens~~  
 3234 ~~Property Insurance Corporation, either by issuance of a policy~~  
 3235 ~~upon expiration or cancellation of the corporation policy or by~~  
 3236 ~~assumption of the corporation's obligations with respect to in-~~  
 3237 ~~force policies, exclude such removed policies for the succeeding~~  
 3238 ~~3 years, as follows:~~

3239 1. ~~In the first year following removal of the risks, the~~  
 3240 ~~risks are excluded from the calculation to the extent of 100~~  
 3241 ~~percent.~~

3242 2. ~~In the second year following removal of the risks, the~~  
 3243 ~~risks are excluded from the calculation to the extent of 75~~  
 3244 ~~percent.~~

3245 3. ~~In the third year following removal of the risks, the~~  
 3246 ~~risks are excluded from the calculation to the extent of 50~~  
 3247 ~~percent.~~

3248  
 3249 ~~If the removal of risks is accomplished through assumption of~~  
 3250 ~~obligations with respect to in-force policies, the corporation~~

3251 ~~shall pay to the assuming insurer all unearned premium with~~  
 3252 ~~respect to such policies less any policy acquisition costs~~  
 3253 ~~agreed to by the corporation and assuming insurer. The term~~  
 3254 ~~"policy acquisition costs" is defined as costs of issuance of~~  
 3255 ~~the policy by the corporation which includes agent commissions,~~  
 3256 ~~servicing company fees, and premium tax. This paragraph does not~~  
 3257 ~~apply to an insurer that, at any time within 5 years before~~  
 3258 ~~removing the risks, had a market share in excess of 0.1 percent~~  
 3259 ~~of the statewide aggregate gross direct written premium for any~~  
 3260 ~~line of property insurance, or to an affiliate of such an~~  
 3261 ~~insurer. This paragraph does not apply unless either at least 40~~  
 3262 ~~percent of the risks removed from the corporation are located in~~  
 3263 ~~Miami-Dade, Broward, and Palm Beach Counties, or at least 30~~  
 3264 ~~percent of the risks removed from the corporation are located in~~  
 3265 ~~such counties and an additional 50 percent of the risks removed~~  
 3266 ~~from the corporation are located in other coastal counties.~~

3267 ~~(b) An insurer that first wrote personal lines residential~~  
 3268 ~~property coverage in this state on or after July 1, 1994, is~~  
 3269 ~~exempt from regular deficit assessments imposed pursuant to s.~~  
 3270 ~~627.351(6)(b)3.a., but not emergency assessments collected from~~  
 3271 ~~policyholders pursuant to s. 627.351(6)(b)3.e., of the Citizens~~  
 3272 ~~Property Insurance Corporation until the earlier of the~~  
 3273 ~~following:~~

3274 ~~1. The end of the calendar year in which it first wrote~~  
 3275 ~~0.5 percent or more of the statewide aggregate direct written~~

3276 ~~premium for any line of residential property coverage; or~~  
 3277 ~~2. December 31, 1997, or December 31 of the third year in~~  
 3278 ~~which it wrote such coverage in this state, whichever is later.~~

3279 ~~(c) Other than an insurer that is exempt under paragraph~~  
 3280 ~~(b), an insurer that in any calendar year increases its total~~  
 3281 ~~structure exposure subject to wind coverage by 25 percent or~~  
 3282 ~~more over its exposure for the preceding calendar year is, with~~  
 3283 ~~respect to that year, exempt from deficit assessments imposed~~  
 3284 ~~pursuant to s. 627.351(6)(b)3.a., but not emergency assessments~~  
 3285 ~~collected from policyholders pursuant to s. 627.351(6)(b)3.e.,~~  
 3286 ~~of the Citizens Property Insurance Corporation attributable to~~  
 3287 ~~such increase in exposure.~~

3288 ~~(d)~~ Any exemption or credit from regular assessments  
 3289 authorized by this section shall last no longer than 3 years  
 3290 following the cancellation or expiration of the policy by the  
 3291 corporation. With the approval of the office, the board may  
 3292 extend such credits for an additional year if the insurer  
 3293 guarantees an additional year of renewability for all policies  
 3294 removed from the corporation, or for 2 additional years if the  
 3295 insurer guarantees 2 additional years of renewability for all  
 3296 policies so removed.

3297 (5) APPLICABILITY.—

3298 ~~(a)~~ The take-out bonus provided by subsection (2) applies  
 3299 ~~and the exemption from assessment provided by paragraph (3)(a)~~  
 3300 ~~apply~~ only if the corporation policy is replaced by a standard

3301 policy including wind coverage or, if consistent with the  
3302 insurer's underwriting rules filed with the office, a basic  
3303 policy including wind coverage; however, for risks located in  
3304 areas where coverage through the coastal account of the  
3305 corporation is available, the replacement policy need not  
3306 provide wind coverage. The insurer must renew the replacement  
3307 policy at approved rates on substantially similar terms for four  
3308 additional 1-year terms, unless canceled or not renewed by the  
3309 policyholder. If an insurer assumes the corporation's  
3310 obligations for a policy, it must issue a replacement policy for  
3311 a 1-year term upon expiration of the corporation policy and must  
3312 renew the replacement policy at approved rates on substantially  
3313 similar terms for four additional 1-year terms, unless canceled  
3314 or not renewed by the policyholder. For each replacement policy  
3315 canceled or nonrenewed by the insurer for any reason during the  
3316 5-year coverage period, the insurer must remove from the  
3317 corporation one additional policy covering a risk similar to the  
3318 risk covered by the canceled or nonrenewed policy. In addition,  
3319 the corporation must place the bonus moneys in escrow for 5  
3320 years; such moneys may be released from escrow only to pay  
3321 claims. If the policy is canceled or nonrenewed before the end  
3322 of the 5-year period, the amount of the take-out bonus must be  
3323 prorated for the time period the policy was insured. A take-out  
3324 bonus provided by subsection (2) or subsection (6) is not  
3325 premium income for purposes of taxes and assessments under the

3326 Florida Insurance Code and remains the property of the  
3327 corporation, subject to the prior security interest of the  
3328 insurer under the escrow agreement until it is released from  
3329 escrow; after it is released from escrow it is considered an  
3330 asset of the insurer and credited to the insurer's capital and  
3331 surplus.

3332 ~~(b) It is the intent of the Legislature that an insurer~~  
3333 ~~eligible for the exemption under paragraph (3)(a) establish a~~  
3334 ~~preference in appointment of agents for those agents who lose a~~  
3335 ~~substantial amount of business as a result of risks being~~  
3336 ~~removed from the corporation.~~

3337 (6) COMMERCIAL RESIDENTIAL TAKE-OUT PLANS.—

3338 ~~(d) The calculation of an insurer's regular assessment~~  
3339 ~~liability under s. 627.351(6)(b)3.a., but not emergency~~  
3340 ~~assessments collected from policyholders pursuant to s.~~  
3341 ~~627.351(6)(b)3.c., shall, with respect to commercial residential~~  
3342 ~~policies removed from the corporation under an approved take-out~~  
3343 ~~plan, exclude such removed policies for the succeeding 3 years,~~  
3344 ~~as follows:~~

3345 ~~1. In the first year following removal of the policies,~~  
3346 ~~the policies are excluded from the calculation to the extent of~~  
3347 ~~100 percent.~~

3348 ~~2. In the second year following removal of the policies,~~  
3349 ~~the policies are excluded from the calculation to the extent of~~  
3350 ~~75 percent.~~

3351 ~~3. In the third year following removal of the policies,~~  
3352 ~~the policies are excluded from the calculation to the extent of~~  
3353 ~~50 percent.~~

3354 ~~(c) An insurer that first wrote commercial residential~~  
3355 ~~property coverage in this state on or after June 1, 1996, is~~  
3356 ~~exempt from regular assessments under s. 627.351(6)(b)3.a., but~~  
3357 ~~not emergency assessments collected from policyholders pursuant~~  
3358 ~~to s. 627.351(6)(b)3.c., with respect to commercial residential~~  
3359 ~~policies until the earlier of:~~

3360 ~~1. The end of the calendar year in which such insurer~~  
3361 ~~first wrote 0.5 percent or more of the statewide aggregate~~  
3362 ~~direct written premium for commercial residential property~~  
3363 ~~coverage; or~~

3364 ~~2. December 31 of the third year in which such insurer~~  
3365 ~~wrote commercial residential property coverage in this state.~~

3366 ~~(f) An insurer that is not otherwise exempt from regular~~  
3367 ~~assessments under s. 627.351(6)(b)3.a. with respect to~~  
3368 ~~commercial residential policies is, for any calendar year in~~  
3369 ~~which such insurer increased its total commercial residential~~  
3370 ~~hurricane exposure by 25 percent or more over its exposure for~~  
3371 ~~the preceding calendar year, exempt from regular assessments~~  
3372 ~~under s. 627.351(6)(b)3.a., but not emergency assessments~~  
3373 ~~collected from policyholders pursuant to s. 627.351(6)(b)3.c.,~~  
3374 ~~attributable to such increased exposure.~~

3375 Section 4. Subsections (5), (6), and (7) of section

3376 627.3518, Florida Statutes, are amended to read:

3377           627.3518 Citizens Property Insurance Corporation  
 3378 policyholder eligibility clearinghouse program.—The purpose of  
 3379 this section is to provide a framework for the corporation to  
 3380 implement a clearinghouse program by January 1, 2014.

3381           (5) Notwithstanding s. 627.3517, any applicant for new  
 3382 coverage from the corporation is not eligible for coverage from  
 3383 the corporation if provided an offer of coverage from an  
 3384 authorized insurer through the program at a premium that is at  
 3385 or below the eligibility threshold for applicants for new  
 3386 coverage established in s. 627.351(6)(c)5.a. An applicant for  
 3387 new coverage from the corporation on a risk that is not a  
 3388 primary residence is not eligible for coverage from the  
 3389 corporation if provided an offer of coverage from an authorized  
 3390 insurer through the program and if such offer would render the  
 3391 risk ineligible pursuant to s. 627.351(6)(c)5.d. Whenever an  
 3392 offer of coverage for a personal lines risk that is a primary  
 3393 residence is received for a policyholder of the corporation at  
 3394 renewal from an authorized insurer through the program which is  
 3395 at or below the eligibility threshold for policyholders of the  
 3396 corporation established in s. 627.351(6)(c)5.a., the risk is not  
 3397 eligible for coverage with the corporation. Whenever an offer of  
 3398 coverage for a personal lines risk that is not a primary  
 3399 residence is received for a policyholder of the corporation at  
 3400 renewal from an authorized insurer through the program, the risk



3401 is not eligible for coverage with the corporation if such offer  
3402 would render the risk ineligible pursuant to s.  
3403 627.351(6)(c)5.d. In the event an offer of coverage on a primary  
3404 residence for a new applicant is received from an authorized  
3405 insurer through the program, and the premium offered exceeds the  
3406 eligibility threshold for applicants for new coverage  
3407 established in s. 627.351(6)(c)5.a., the applicant or insured  
3408 may elect to accept such coverage, or may elect to accept or  
3409 continue coverage with the corporation. In the event an offer of  
3410 coverage for a personal lines risk that is a primary residence  
3411 is received from an authorized insurer at renewal through the  
3412 program, and the premium offered exceeds the eligibility  
3413 threshold for policyholders of the corporation established in s.  
3414 627.351(6)(c)5.a., the insured may elect to accept such  
3415 coverage, or may elect to accept or continue coverage with the  
3416 corporation. Section 627.351(6)(c)5.a.(I) does not apply to an  
3417 offer of coverage from an authorized insurer obtained through  
3418 the program. As used in this subsection, the term "primary  
3419 residence" has the same meaning as in s. 627.351(6)(c)2.a.

3420 (6) Independent insurance agents submitting new  
3421 applications for coverage or that are the agent of record on a  
3422 renewal policy submitted to the program:

3423 (a) Are granted and must maintain ownership and the  
3424 exclusive use of expirations, records, or other written or  
3425 electronic information directly related to such applications or

3426 renewals written through the corporation or through an insurer  
 3427 participating in the program, notwithstanding s.  
 3428 627.351(6)(c)5.a.(I)(B) and (II)(B) or s.  
 3429 627.351(6)(c)5.d.(I)(B) and (II)(B). Such ownership is granted  
 3430 for as long as the insured remains with the agency or until sold  
 3431 or surrendered in writing by the agent. Contracts with the  
 3432 corporation or required by the corporation must not amend,  
 3433 modify, interfere with, or limit such rights of ownership. Such  
 3434 expirations, records, or other written or electronic information  
 3435 may be used to review an application, issue a policy, or for any  
 3436 other purpose necessary for placing such business through the  
 3437 program.

3438 (b) May not be required to be appointed by any insurer  
 3439 participating in the program for policies written solely through  
 3440 the program, notwithstanding the provisions of s. 626.112.

3441 (c) May accept an appointment from any insurer  
 3442 participating in the program.

3443 (d) May enter into either a standard or limited agency  
 3444 agreement with the insurer, at the insurer's option.

3445  
 3446 Applicants ineligible for coverage in accordance with subsection  
 3447 (5) remain ineligible if their independent agent is unwilling or  
 3448 unable to enter into a standard or limited agency agreement with  
 3449 an insurer participating in the program.

3450 (7) Exclusive agents submitting new applications for

3451 coverage or that are the agent of record on a renewal policy  
 3452 submitted to the program:

3453 (a) Must maintain ownership and the exclusive use of  
 3454 expirations, records, or other written or electronic information  
 3455 directly related to such applications or renewals written  
 3456 through the corporation or through an insurer participating in  
 3457 the program, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and  
 3458 (II)(B) or s. 627.351(6)(c)5.d.(I)(B) and (II)(B). Contracts  
 3459 with the corporation or required by the corporation must not  
 3460 amend, modify, interfere with, or limit such rights of  
 3461 ownership. Such expirations, records, or other written or  
 3462 electronic information may be used to review an application,  
 3463 issue a policy, or for any other purpose necessary for placing  
 3464 such business through the program.

3465 (b) May not be required to be appointed by any insurer  
 3466 participating in the program for policies written solely through  
 3467 the program, notwithstanding the provisions of s. 626.112.

3468 (c) Must only facilitate the placement of an offer of  
 3469 coverage from an insurer whose limited servicing agreement is  
 3470 approved by that exclusive agent's exclusive insurer.

3471 (d) May enter into a limited servicing agreement with the  
 3472 insurer making an offer of coverage, and only after the  
 3473 exclusive agent's insurer has approved the limited servicing  
 3474 agreement terms. The exclusive agent's insurer must approve a  
 3475 limited service agreement for the program for any insurer for

CS/CS/HB 1503

2024

3476 | which it has approved a service agreement for other purposes.

3477

3478 | Applicants ineligible for coverage in accordance with subsection  
3479 | (5) remain ineligible if their exclusive agent is unwilling or  
3480 | unable to enter into a standard or limited agency agreement with  
3481 | an insurer making an offer of coverage to that applicant.

3482 |       Section 5. Except as otherwise expressly provided in this  
3483 | act and except for this section, which shall take effect upon  
3484 | this act becoming a law, this act shall take effect July 1,  
3485 | 2024.