

By the Committee on Banking and Insurance

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1 A bill to be entitled
2 An act relating to property insurance; amending s.
3 215.555, F.S.; changing the name of the Florida
4 Hurricane Catastrophe Fund Finance Corporation to the
5 State Board of Administration Finance Corporation;
6 creating s. 215.5551, F.S.; creating the Florida
7 Catastrophe Risk Capital Access Facility to increase
8 the access of small domestic insurers to risk-capital
9 markets; providing intent; establishing the facility
10 in the State Board of Administration; providing the
11 purposes of the facility; requiring the facility to be
12 funded entirely by participating insurers after
13 initial apportionment; providing limitations;
14 providing for a board of directors; providing immunity
15 from liability; providing for an annual report;
16 amending s. 624.155, F.S.; providing that Citizens
17 Property Insurance Corporation is an insurer subject
18 to civil actions as an agent of the state covered by
19 sovereign immunity; amending s. 626.752, F.S.,
20 relating to the exchange of business between an agent
21 and insurer; providing an exemption from the
22 requirements of that section to the corporation under
23 certain circumstances; amending s. 627.062, F.S.;
24 requiring the Office of Insurance Regulation to
25 calculate and publish insurance inflation factors for
26 use in residential property insurance filings;
27 prohibiting the office from disapproving a rate as
28 excessive due to the insurer's purchase of reinsurance
29 for certain purposes; deleting obsolete provisions;

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30 conforming cross-references; amending s. 627.0628,
31 F.S.; requiring the Florida Commission on Hurricane
32 Loss Projection Methodology to consider methods for
33 improving the accuracy of wind mitigation discounts;
34 amending s. 627.0629, F.S.; requiring insurers to
35 provide notice of mitigation discounts in a
36 residential property insurance rate filing; revising
37 the criteria for when the office may hold a public
38 hearing regarding a rate filing; amending s. 627.171,
39 F.S.; allowing a consent to an excess rate to apply to
40 subsequent policy renewals; limiting the allowable
41 amount of excess rates to counties where there is no
42 competition; amending s. 627.351, F.S.; revising
43 legislative intent with respect to the corporation;
44 reducing the value of residential structures that can
45 be covered by the corporation; revising the
46 corporation's eligibility criteria for structures
47 located seaward of the coastal construction control
48 line; requiring the corporation's board of governors
49 to concur with certain decisions by the executive
50 director; providing for risk-sharing agreements
51 between the corporation and other insurers and
52 specifying the requirements and limitations of such
53 agreements; revising provisions relating to the
54 appointment of the board of governors and the
55 executive director; deleting provisions allowing a
56 policyholder removed from the corporation to remain
57 eligible for coverage regardless of an offer of
58 coverage from an authorized insurer; revising

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59 corporation criteria for appointing agents; requiring
60 disclosure of potential corporation surcharges and
61 policyholder obligations to try and obtain private
62 market coverage; revising provisions relating to the
63 Auditor General's review of the corporation; requiring
64 the board to contract with an independent auditing
65 firm to conduct performance audits; authorizing the
66 corporation to adopt programs that encourage insurers
67 to remove policies from the corporation through a loan
68 secured by a surplus note; revising provisions
69 relating to purchases by the corporation; providing
70 that the corporation is subject to state agency
71 purchasing requirements; requiring the corporation to
72 provide notice of purchasing decisions; providing
73 procedures for protesting such decisions; providing
74 applicability; revising the corporation's rate
75 standards; requiring that corporation rates be
76 competitive with approved rates charged in the
77 admitted market, actuarially sound, and include a
78 catastrophe risk load factor; providing exceptions;
79 limiting rate increases for specified personal and
80 commercial lines residential policies and allowing an
81 additional rate increase; requiring the corporation to
82 annually certify its rates; requiring the board of
83 directors to provide recommendations to the
84 Legislature on ways of providing rate relief to those
85 who demonstrate a financial need; deleting obsolete
86 provisions; creating s. 627.3518, F.S.; establishing a
87 clearinghouse within the corporation for identifying

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88 and diverting insurance coverage to private insurers;
89 providing definitions; providing requirements and
90 duties of the corporation, insurers, and agents;
91 providing for an alternative to submitting risks to
92 the corporation; amending s. 627.405, F.S.;

93 authorizing policyholders to assign benefits subject
94 to conditions in the policy; amending s. 627.410,
95 F.S.; conforming provisions to changes made by the
96 act; creating s. 627.4102, F.S.; providing for an
97 informational filing of certain forms that are exempt
98 from the Office of Insurance Regulation's approval
99 process; requiring an informational filing to include
100 a notarized certification from the insurer and
101 providing a statement that must be included in the
102 certification; requiring a Notice of Change in Policy
103 Terms form to be filed with a changed renewal policy;
104 providing effective dates.

105
106 Be It Enacted by the Legislature of the State of Florida:

107
108 Section 1. Paragraph (n) of subsection (2) and paragraph
109 (d) of subsection (6) of section 215.555, Florida Statutes, are
110 amended to read:

111 215.555 Florida Hurricane Catastrophe Fund.—

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

113 (n) "Corporation" means the State Board of Administration
114 ~~Florida Hurricane Catastrophe Fund~~ Finance Corporation created
115 in paragraph (6) (d).

116 (6) REVENUE BONDS.—

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117 (d) State Board of Administration ~~Florida Hurricane~~
118 ~~Catastrophe Fund Finance Corporation.~~-

119 1. In addition to the findings and declarations in
120 subsection (1), the Legislature also finds and declares that:

121 a. The public benefits corporation created under this
122 paragraph will provide a mechanism ~~necessary~~ for the cost-
123 effective and efficient issuance of bonds. This mechanism will
124 eliminate unnecessary costs in the bond issuance process,
125 thereby increasing the amounts available for ~~to pay~~
126 reimbursement for losses to property sustained as a result of
127 hurricane damage.

128 b. The purpose of such bonds is to fund reimbursements
129 through the Florida Hurricane Catastrophe Fund ~~to pay~~ for the
130 costs of construction, reconstruction, repair, restoration, and
131 other costs associated with damage to properties of
132 policyholders of covered policies due to the occurrence of a
133 hurricane.

134 c. The efficacy of the financing mechanism will be enhanced
135 by the corporation's ownership of the assessments, by the
136 insulation of the assessments from possible bankruptcy
137 proceedings, and by covenants of the state with the
138 corporation's bondholders.

139 ~~2.a.~~ The State Board of Administration Finance Corporation
140 There is created, which is a public benefits corporation and,
141 which is an instrumentality of the state, to be known as the
142 Florida Hurricane Catastrophe Fund Finance Corporation. The
143 State Board of Administration Finance Corporation is for all
144 purposes the successor to the Florida Hurricane Catastrophe Fund
145 Finance Corporation.

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146 ~~a.b.~~ The corporation shall operate under a five-member
147 board of directors consisting of the Governor or a designee, the
148 Chief Financial Officer or a designee, the Attorney General or a
149 designee, the director of the Division of Bond Finance of the
150 State Board of Administration, and the Chief Operating Officer
151 ~~senior employee of the State Board of Administration responsible~~
152 ~~for operations~~ of the Florida Hurricane Catastrophe Fund.

153 ~~b.e.~~ The corporation has all of the powers of corporations
154 under chapter 607 and under chapter 617, subject only to ~~the~~
155 ~~provisions of~~ this subsection.

156 ~~c.d.~~ The corporation may issue bonds and engage in such
157 other financial transactions as are necessary to provide
158 sufficient funds to achieve the purposes of this section.

159 ~~d.e.~~ The corporation may invest in any of the investments
160 authorized under s. 215.47.

161 ~~e.f.~~ There is ~~shall be~~ no liability on the part of, and no
162 cause of action shall arise against, any board members or
163 employees of the corporation for any actions taken by them in
164 the performance of their duties under this paragraph.

165 3.a. In actions under chapter 75 to validate any bonds
166 issued by the corporation, the notice required by s. 75.06 must
167 ~~shall~~ be published in two newspapers of general circulation in
168 the state, and the complaint and order of the court shall be
169 served only on the State Attorney of the Second Judicial
170 Circuit.

171 b. The state hereby covenants with holders of bonds of the
172 corporation that the state will not repeal or abrogate the power
173 of the board to direct the Office of Insurance Regulation to
174 levy the assessments and to collect the proceeds of the revenues

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175 pledged to the payment of such bonds as long as ~~any~~ such bonds
176 remain outstanding unless adequate provision has been made for
177 the payment of such bonds pursuant to the documents authorizing
178 the issuance of the ~~such~~ bonds.

179 c.4. The bonds of the corporation are not a debt of the
180 state or of any political subdivision, and neither the state nor
181 any political subdivision is liable on such bonds. The
182 corporation may not ~~does not have the power to~~ pledge the
183 credit, the revenues, or the taxing power of the state or of any
184 political subdivision. The credit, revenues, or taxing power of
185 the state or of any political subdivision may ~~shall~~ not be
186 deemed to be pledged to the payment of any bonds of the
187 corporation.

188 d.5.a. The property, revenues, and other assets of the
189 corporation; the transactions and operations of the corporation
190 and the income from such transactions and operations; and all
191 bonds issued under this paragraph and interest on such bonds are
192 exempt from taxation by the state and any political subdivision,
193 including the intangibles tax under chapter 199 and the income
194 tax under chapter 220. This exemption does not apply to any tax
195 imposed by chapter 220 on interest, income, or profits on debt
196 obligations owned by corporations other than the State Board of
197 Administration ~~Florida Hurricane Catastrophe Fund~~ Finance
198 Corporation.

199 e.b. All bonds of the corporation are ~~shall be and~~
200 ~~constitute~~ legal investments without limitation for all public
201 bodies of this state; for all banks, trust companies, savings
202 banks, savings associations, savings and loan associations, and
203 investment companies; for all administrators, executors,

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204 trustees, and other fiduciaries; for all insurance companies and
205 associations and other persons carrying on an insurance
206 business; and for all other persons who are now or may hereafter
207 be authorized to invest in bonds or other obligations of the
208 state and ~~are shall be and constitute~~ eligible securities to be
209 deposited as collateral for the security of any state, county,
210 municipal, or other public funds. This sub-subparagraph shall be
211 considered ~~as~~ additional and supplemental authority and may
212 ~~shall~~ not be limited without specific reference to this sub-
213 subparagraph.

214 ~~4.6.~~ The corporation and its corporate existence shall
215 continue until terminated by law; however, no such law shall
216 take effect as long as the corporation has bonds outstanding
217 unless adequate provision has been made for the payment of such
218 bonds pursuant to the documents authorizing the issuance of such
219 bonds. Upon termination of the existence of the corporation, all
220 of its rights and properties in excess of its obligations shall
221 pass to and be vested in the state.

222 Section 2. Section 215.5551, Florida Statutes, is created
223 to read:

224 215.5551 Florida Catastrophe Risk Capital Access Facility.

225 (1) The Legislature finds that the global market for
226 catastrophe risk has expanded dramatically, resulting in the
227 availability of billions of dollars in additional risk capital
228 for insurers and new and innovative alternative risk-transfer
229 mechanisms. The Legislature also finds that having access to
230 additional risk capital and risk-transfer mechanisms provides
231 insurers providing coverage in this state with an opportunity to
232 expand their capacity to write additional business and diversify

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233 their catastrophe risk. The Legislature further finds that
234 despite an expansion in the amount of available global risk
235 capital, small insurers, particularly smaller domestic insurers,
236 writing property insurance in this state face substantial
237 challenges accessing these global markets when the relatively
238 small amount of risk finance required by any one company is not
239 economically viable. Therefore, it is the intent of the
240 Legislature to create a mechanism to facilitate the access of
241 small domestic insurers to global risk capital markets and risk-
242 transfer mechanisms.

243 (2) Effective July 1, 2013, the Florida Catastrophe Risk
244 Capital Access Facility is created within the State Board of
245 Administration. The facility is not defined nor may it function
246 as an insurer, reinsurer, or other risk-bearing entity under
247 state law.

248 (3) The facility shall:

249 (a) Aggregate the demand for risk finance from global
250 capital markets among smaller volume domestic property insurance
251 companies writing business in this state.

252 (b) Design and execute risk-transfer tools such as
253 insurance-linked securities and other securitization models for
254 participating insurers, and use special purpose vehicles or
255 protected cells, onshore or offshore, as appropriate, to
256 increase access to risk capital.

257 (c) Identify and coordinate appropriate risk-transfer
258 products and opportunities, initially targeting layers of
259 coverage below, alongside, and above the portion of the
260 reinsurance market covered by the Florida Hurricane Catastrophe
261 Fund.

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262 (d) Establish and maintain regular and ongoing contact with
263 global risk capital market participants, institutions, and
264 investors, in order to identify opportunities that satisfy and
265 coordinate insurer demand for additional risk capital.

266 (4) After an initial apportionment for startup purposes,
267 the facility shall be funded entirely by participating insurers
268 on a pro rata basis.

269 (5) In conducting its affairs, the facility may not:

270 (a) Take a position in, or provide financial support for,
271 risk-transfer transactions;

272 (b) Be a guarantor of premium or make any other financial
273 guarantees to participating insurers;

274 (c) Create contractual obligations on the part of the
275 state; or

276 (d) Levy taxes or assessments.

277 (6) The facility shall be governed by a board of directors
278 composed of seven members, one from the Department of Financial
279 Services; one from the State Board of Administration; one from
280 the Office of Insurance Regulation; three industry members
281 representing Florida property insurance writers, the reinsurance
282 community, and the financial securities industry; and one member
283 appointed by a majority of the board. The board may employ or
284 contract with such staff and professionals as the board deems
285 necessary to accomplish its purpose.

286 (7) There shall be no liability on the part of, and no
287 cause of action of any nature may arise against, the facility or
288 its agents or employees, the board of directors, or the
289 department or office or their representatives for any action
290 taken by them in the performance of their powers and duties

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291 under this section.

292 (8) The facility shall submit a report to the Financial
293 Services Commission by January 1 of each year describing
294 facility activities and transactions undertaken by participating
295 insurers.

296 Section 3. Subsection (1) of section 624.155, Florida
297 Statutes, is amended and subsection (10) is added to that
298 section, to read:

299 624.155 Civil remedy.—

300 (1) Any person may bring a civil action against an insurer,
301 including Citizens Property Insurance Corporation, if ~~when~~ such
302 person is damaged:

303 (a) By a violation of any of the following provisions by
304 the insurer:

- 305 1. Section 626.9541(1) (i), (o), or (x);
- 306 2. Section 626.9551;
- 307 3. Section 626.9705;
- 308 4. Section 626.9706;
- 309 5. Section 626.9707; or
- 310 6. Section 627.7283.

311 (b) By the commission of any of the following acts by the
312 insurer:

313 1. Not attempting in good faith to settle claims if ~~when~~,
314 under all the circumstances, it could and should have done so,
315 had it acted fairly and honestly toward its insured and with due
316 regard for her or his interests;

317 2. Making claims payments to insureds or beneficiaries not
318 accompanied by a statement setting forth the coverage under
319 which payments are being made; or

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320 3. Except as to liability coverages, failing to promptly
321 settle claims, when the obligation to settle a claim has become
322 reasonably clear, under one portion of the insurance policy
323 coverage in order to influence settlements under other portions
324 of the insurance policy coverage.

325
326 Notwithstanding the provisions of this subsection ~~the above to~~
327 ~~the contrary~~, a person pursuing a remedy under this section need
328 not prove that such act was committed or performed with such
329 frequency as to indicate a general business practice.

330 (10) For the purposes of this section, Citizens Property
331 Insurance Corporation is an agent of the state covered under s.
332 768.28.

333 Section 4. Subsection (4) of section 626.752, Florida
334 Statutes, is amended to read:

335 626.752 Exchange of business.—

336 (4) The foregoing limitations and restrictions do ~~shall~~ not
337 ~~be construed and shall not~~ apply to the placing of surplus lines
338 business under the provisions of part VIII, or to Citizens
339 Property Insurance Corporation when placing new and renewal
340 business with authorized insurers in order to reduce the size of
341 the corporation pursuant to s. 627.3518.

342 Section 5. Subsection (2) and paragraph (d) of subsection
343 (3) of section 627.062, Florida Statutes, are amended to read:

344 627.062 Rate standards.—

345 (2) As to all such classes of insurance:

346 (a) Insurers or rating organizations shall establish and
347 use rates, rating schedules, or rating manuals that allow the
348 insurer a reasonable rate of return on the classes of insurance

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349 written in this state. A copy of rates, rating schedules, rating
350 manuals, premium credits or discount schedules, and surcharge
351 schedules, and changes thereto, must be filed with the office in
352 accordance with ~~under~~ one of the following procedures:

353 1. If the filing is made at least 90 days before the
354 proposed effective date and is not implemented during the
355 office's review of the filing and any proceeding and judicial
356 review, such filing is considered a "file and use" filing. In
357 such case, the office shall finalize its review by issuance of a
358 notice of intent to approve or a notice of intent to disapprove
359 within 90 days after receipt of the filing. The notice of intent
360 to approve and the notice of intent to disapprove constitute
361 agency action for purposes of the Administrative Procedure Act.
362 Requests for supporting information, requests for mathematical
363 or mechanical corrections, or notification to the insurer by the
364 office of its preliminary findings does not toll the 90-day
365 period during ~~any~~ such proceedings and subsequent judicial
366 review. The rate shall be deemed approved if the office does not
367 issue a notice of intent to approve or a notice of intent to
368 disapprove within 90 days after receipt of the filing.

369 2. If the filing is not made in accordance with
370 subparagraph 1., such filing must be made as soon as
371 practicable, but within 30 days after the effective date, and is
372 considered a "use and file" filing. An insurer making a "use and
373 file" filing is potentially subject to an order by the office to
374 return ~~to policyholders~~ those portions of rates found to be
375 excessive to policyholders, as provided in paragraph (i) ~~(h)~~.

376 ~~3. For all property insurance filings made or submitted~~
377 ~~after January 25, 2007, but before May 1, 2012, an insurer~~

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378 ~~seeking a rate that is greater than the rate most recently~~
 379 ~~approved by the office shall make a "file and use" filing. For~~
 380 ~~purposes of this subparagraph, motor vehicle collision and~~
 381 ~~comprehensive coverages are not considered property coverages.~~

382 (b) Upon receiving a rate filing, the office shall review
 383 the filing to determine if a rate is excessive, inadequate, or
 384 unfairly discriminatory. In making that determination, the
 385 office shall, in accordance with generally accepted and
 386 reasonable actuarial techniques, consider the following factors:

387 1. Past and prospective loss experience within and without
 388 this state.

389 2. Past and prospective expenses.

390 3. The degree of competition among insurers for the risk
 391 insured.

392 4. Investment income reasonably expected by the insurer,
 393 consistent with the insurer's investment practices, from
 394 investable premiums anticipated from ~~in~~ the filing, plus any
 395 other expected income from currently invested assets
 396 representing the amount expected on unearned premium reserves
 397 and loss reserves. The commission may adopt rules that use ~~using~~
 398 reasonable techniques of actuarial science and economics to
 399 specify the manner in which insurers calculate investment income
 400 attributable to classes of insurance written in this state and
 401 ~~the manner~~ in which investment income is used to calculate
 402 insurance rates. Such rules ~~manner~~ must allow ~~contemplate~~
 403 ~~allowances~~ for an underwriting profit factor and full
 404 consideration of investment income which produce a reasonable
 405 rate of return; however, investment income from invested surplus
 406 may not be considered.

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407 5. The reasonableness of the judgment reflected in the
408 filing.

409 6. Dividends, savings, or unabsorbed premium deposits
410 allowed or returned to state ~~Florida~~ policyholders, members, or
411 subscribers.

412 7. The adequacy of loss reserves.

413 8. The cost of reinsurance. The office may not disapprove a
414 rate as excessive ~~solely~~ due solely to the insurer having
415 obtained catastrophic reinsurance to cover the insurer's
416 estimated 250-year probable maximum loss or any lower level of
417 loss, or due solely to an admitted carrier purchasing private
418 reinsurance that would insure against potential deficits within
419 the Florida Hurricane Catastrophe Fund which the most recent
420 estimate made pursuant to s. 215.555(4)(c)2. predicts would be
421 funded through revenue bonds issued under s. 215.555(6).

422 9. Trend factors, including trends in actual losses per
423 insured unit for the insurer making the filing.

424 10. Conflagration and catastrophe hazards, if applicable.

425 11. Projected hurricane losses, if applicable, which must
426 be estimated using a model or method found to be acceptable or
427 reliable by the Florida Commission on Hurricane Loss Projection
428 Methodology, and as further provided in s. 627.0628.

429 12. A reasonable margin for underwriting profit and
430 contingencies.

431 13. The cost of medical services, if applicable.

432 14. Other relevant factors that affect the frequency or
433 severity of claims or expenses.

434 (c) The office shall calculate and publish insurance
435 inflation factors based on noncatastrophe direct loss costs for

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436 use in residential property insurance filings. The office shall
437 update the published factors at least annually and make them
438 available on its website. The calculation of insurance inflation
439 factors are not subject to rulemaking under chapter 120.

440 1. An insurer making a residential property insurance rate
441 filing that proposes a change in noncatastrophe base rates by a
442 uniform factor equal to or less than the applicable published
443 insurance inflation factor, may make a rate filing under s.
444 627.0645 which consists of a rate certification in lieu of a
445 full rate filing under paragraph (a). The office shall verify
446 insurer use of the appropriate published inflation factor and,
447 if the inflation factor is used appropriately, the filed rates
448 shall be deemed not excessive.

449 2. An insurer filing under this paragraph may make a
450 separate filing pursuant to paragraph (1) to adjust its rates
451 for reinsurance rates, reinsurance financing costs and products,
452 and cash buildup factor costs. The insurance inflation factors
453 do not apply to these filings.

454 3. This paragraph does not apply to filings made by
455 Citizens Property Insurance Corporation.

456 (d)~~(e)~~ In the case of fire insurance rates, consideration
457 must be given to the availability of water supplies and the
458 experience of the fire insurance business during a ~~period of not~~
459 ~~less than~~ the most recent 5-year or longer period for which such
460 experience is available.

461 (e)~~(d)~~ If conflagration or catastrophe hazards are
462 considered by an insurer in its rates or rating plan, including
463 surcharges and discounts, the insurer must ~~shall~~ establish a
464 reserve for that portion of the premium allocated to such hazard

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465 and maintain the premium in a catastrophe reserve. Removal of
466 such premiums from the reserve for purposes other than paying
467 claims associated with a catastrophe or purchasing reinsurance
468 for catastrophes must be approved by the office. Any ceding
469 commission received by an insurer purchasing reinsurance for
470 catastrophes must be placed in the catastrophe reserve.

471 (f) ~~(e)~~ After consideration of the rate factors provided in
472 paragraphs (b), ~~(e)~~, and (d), and (e) the office may find a rate
473 to be excessive, inadequate, or unfairly discriminatory based
474 upon the following standards:

475 1. Rates shall be deemed excessive if they are likely to
476 produce a profit from Florida business which is unreasonably
477 high in relation to the risk involved in the class of business
478 or if expenses are unreasonably high in relation to services
479 rendered.

480 2. Rates shall be deemed excessive if, among other things,
481 the rate structure established by a stock insurance company
482 provides for replenishment of surpluses from premiums, if the
483 such replenishment is attributable to investment losses.

484 3. Rates shall be deemed inadequate if ~~they are clearly~~
485 ~~insufficient~~, together with the investment income attributable
486 to them, they are clearly insufficient to sustain projected
487 losses and expenses in the class of business to which they
488 apply.

489 4. A rating plan, including discounts, credits, or
490 surcharges, shall be deemed unfairly discriminatory if it fails
491 to clearly and equitably reflect consideration of the
492 policyholder's participation in a risk management program
493 adopted pursuant to s. 627.0625.

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494 5. A rate shall be deemed inadequate as to the premium
495 charged to a risk or group of risks if discounts or credits are
496 allowed which exceed a reasonable reflection of expense savings
497 and reasonably expected loss experience from the risk or group
498 of risks.

499 6. A rate shall be deemed unfairly discriminatory as to a
500 risk or group of risks if the application of premium discounts,
501 credits, or surcharges among such risks does not bear a
502 reasonable relationship to the expected loss and expense
503 experience among the various risks.

504 (g) ~~(f)~~ In reviewing a rate filing, the office may require
505 the insurer to provide, at the insurer's expense, all
506 information necessary to evaluate the condition of the company
507 and the reasonableness of the filing according to the criteria
508 enumerated in this section.

509 (h) ~~(g)~~ The office may at any time review a rate, rating
510 schedule, rating manual, or rate change; the pertinent records
511 of the insurer; and market conditions. If the office finds on a
512 preliminary basis that a rate may be excessive, inadequate, or
513 unfairly discriminatory, the office shall initiate proceedings
514 to disapprove the rate and ~~shall so~~ notify the insurer. However,
515 the office may not disapprove as excessive any rate for which it
516 has given final approval or which has been deemed approved for 1
517 year after the effective date of the filing unless the office
518 finds that a material misrepresentation or material error was
519 made by the insurer or was contained in the filing. Upon
520 notification being notified, the insurer or rating organization
521 shall, within 60 days, file with the office all information
522 that, in the belief of the insurer or organization, proves the

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523 reasonably, adequacy, and fairness of the rate or rate
 524 change. The office shall issue a notice of intent to approve or
 525 a notice of intent to disapprove pursuant to paragraph (a)
 526 within 90 days after receipt of the insurer's initial response.
 527 In such instances and in any administrative proceeding relating
 528 to the legality of the rate, the insurer or rating organization
 529 ~~shall~~ carry the burden of proof of showing, by a preponderance
 530 of the evidence, ~~to show~~ that the rate is not excessive,
 531 inadequate, or unfairly discriminatory. After the office
 532 notifies an insurer that a rate may be excessive, inadequate, or
 533 unfairly discriminatory, unless the office withdraws the
 534 notification, the insurer may not alter the rate except to
 535 conform to the office's notice until the earlier of 120 days
 536 after the date the notification was provided or 180 days after
 537 the date of implementing the rate. ~~The office,~~ Subject to
 538 chapter 120, the office may disapprove without the 60-day
 539 notification any rate increase filed by an insurer within the
 540 prohibited time period or during the time that the legality of
 541 the increased rate is being contested.

542 (i) ~~(h)~~ If the office finds that a rate or rate change is
 543 excessive, inadequate, or unfairly discriminatory, the office
 544 shall issue an order of disapproval requiring ~~specifying~~ that a
 545 new rate or rate schedule, which responds to the findings of the
 546 office, be filed by the insurer. The office shall further order,
 547 for any "use and file" filing made in accordance with
 548 subparagraph (a)2., that the portion of premiums charged which
 549 constitute each policyholder constituting the portion of the
 550 rate above that which was actuarially justified be returned to
 551 the policyholder in the form of a credit or refund. If the

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552 office finds that an insurer's rate or rate change is
553 inadequate, the new rate or rate schedule filed with the office
554 in response to such a finding applies ~~is applicable~~ only to new
555 or renewal business ~~of the insurer~~ written by the insurer on or
556 after the effective date of the responsive filing.

557 (j) ~~(i)~~ Except as otherwise specifically provided in this
558 chapter, for property and casualty insurance the office may not
559 directly or indirectly:

560 1. Prohibit an ~~any~~ insurer, including any residual market
561 plan or joint underwriting association, from paying acquisition
562 costs based on the full amount of premium, as defined in s.
563 627.403, applicable to any policy, or prohibit ~~any~~ such insurer
564 from including the full amount of acquisition costs in a rate
565 filing; or

566 2. Impede, abridge, or otherwise compromise an insurer's
567 right to acquire policyholders, advertise, or appoint agents,
568 including the calculation, manner, or amount of such agent
569 commissions, if any.

570 (k) ~~(j)~~ With respect to residential property insurance rate
571 filings, the rate filing must account for mitigation measures
572 undertaken by policyholders to reduce hurricane losses.

573 (l) ~~(k)~~ 1. A residential property insurer may make a separate
574 filing limited solely to an adjustment of its rates for
575 reinsurance, the cost of financing products used as a
576 replacement for reinsurance, financing costs incurred in the
577 purchase of reinsurance, and the actual cost paid due to the
578 application of the cash build-up factor pursuant to s.
579 215.555(5)(b) if the insurer:

580 a. Elects to purchase financing products, such as a

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581 liquidity instrument or line of credit, in which case the cost
582 included in filing for the liquidity instrument or line of
583 credit may not result in a premium increase exceeding 3 percent
584 for any individual policyholder. All costs contained in the
585 filing may not result in an overall premium increase of more
586 than 15 percent for any individual policyholder.

587 b. Includes in the filing a copy of all of its reinsurance,
588 liquidity instrument, or line of credit contracts; proof of the
589 billing or payment for the contracts; and the calculation upon
590 which the proposed rate change is based demonstrating that the
591 costs meet the criteria of this section.

592 2. An insurer that purchases reinsurance or financing
593 products from an affiliated company may make a separate filing
594 only if the costs for such reinsurance or financing products are
595 charged at or below charges made for comparable coverage by
596 nonaffiliated reinsurers or financial entities making such
597 coverage or financing products available in this state.

598 3. An insurer may make only one filing per 12-month period
599 under this paragraph.

600 4. An insurer that elects to implement a rate change under
601 this paragraph must file its rate filing with the office at
602 least 45 days before the effective date of the rate change.
603 After an insurer submits a complete filing that meets all of the
604 requirements of this paragraph, the office has 45 days after the
605 date of the filing to review the rate filing and determine if
606 the rate is excessive, inadequate, or unfairly discriminatory.

607
608 The provisions of this subsection do not apply to workers'
609 compensation, employer's liability insurance, and motor vehicle

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610 insurance.

611 (3)

612 (d)1. The following categories or kinds of insurance and

613 types of commercial lines risks are not subject to paragraph

614 (2) (a) or paragraph (2) (g) ~~(2) (f)~~:

615 a. Excess or umbrella.

616 b. Surety and fidelity.

617 c. Boiler and machinery and leakage and fire extinguishing

618 equipment.

619 d. Errors and omissions.

620 e. Directors and officers, employment practices, fiduciary

621 liability, and management liability.

622 f. Intellectual property and patent infringement liability.

623 g. Advertising injury and Internet liability insurance.

624 h. Property risks rated under a highly protected risks

625 rating plan.

626 i. General liability.

627 j. Nonresidential property, except for collateral

628 protection insurance as defined in s. 624.6085.

629 k. Nonresidential multiperil.

630 l. Excess property.

631 m. Burglary and theft.

632 n. Any other commercial lines categories or kinds of

633 insurance or types of commercial lines risks that the office

634 determines should not be subject to paragraph (2) (a) or

635 paragraph (2) (g) ~~(2) (f)~~ because of the existence of a

636 competitive market for such insurance, similarity of such

637 insurance to other categories or kinds of insurance not subject

638 to paragraph (2) (a) or paragraph (2) (g) ~~(2) (f)~~, or to improve

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639 the general operational efficiency of the office.

640 2. Insurers or rating organizations shall establish and use
641 rates, rating schedules, or rating manuals that ~~to~~ allow the
642 insurer a reasonable rate of return on insurance and risks
643 described in subparagraph 1. which are written in this state.

644 3. An insurer must notify the office of any changes to
645 rates for insurance and risks described in subparagraph 1.
646 within 30 days after the effective date of the change. The
647 notice must include the name of the insurer, the type or kind of
648 insurance subject to rate change, total premium written during
649 the immediately preceding year by the insurer for the type or
650 kind of insurance subject to the rate change, and the average
651 statewide percentage change in rates. Underwriting files,
652 premiums, losses, and expense statistics relating ~~with regard~~ to
653 such insurance and risks written by an insurer must be
654 maintained by the insurer and subject to examination by the
655 office. Upon examination, the office, in accordance with
656 generally accepted and reasonable actuarial techniques, shall
657 consider the rate factors in paragraphs (2)(b), (d) ~~(e)~~, and (e)
658 ~~(d)~~ and the standards in paragraph (2)(f) ~~(2)(e)~~ to determine if
659 the rate is excessive, inadequate, or unfairly discriminatory.

660 4. A rating organization must notify the office of any
661 changes to loss cost for insurance and risks described in
662 subparagraph 1. within 30 days after the effective date of the
663 change. The notice must include the name of the rating
664 organization, the type or kind of insurance subject to a loss
665 cost change, loss costs during the immediately preceding year
666 for the type or kind of insurance subject to the loss cost
667 change, and the average statewide percentage change in loss

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668 cost. Actuarial data relating ~~with regard~~ to changes to loss
 669 cost for risks not subject to paragraph (2) (a) or paragraph
 670 (2) (g) ~~(2) (f)~~ must be maintained by the rating organization for
 671 2 years after the effective date of the change and are subject
 672 to examination by the office. The office may require the rating
 673 organization to incur the costs associated with an examination.
 674 Upon examination, the office, in accordance with generally
 675 accepted and reasonable actuarial techniques, shall consider the
 676 rate factors in paragraphs (2) (b), (d), and (e) ~~(2) (b) (d)~~ and
 677 the standards in paragraph (2) (f) ~~(2) (e)~~ to determine if the
 678 rate is excessive, inadequate, or unfairly discriminatory.

679 Section 6. Paragraphs (a) and (b) of subsection (3) of
 680 section 627.0628, Florida Statutes, are amended to read:

681 627.0628 Florida Commission on Hurricane Loss Projection
 682 Methodology; public records exemption; public meetings
 683 exemption.—

684 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

685 (a) The commission shall consider any actuarial methods,
 686 principles, standards, models, or output ranges that have the
 687 potential for improving the accuracy ~~of~~ or reliability of the
 688 hurricane loss projections and wind mitigation discounts used in
 689 residential property insurance rate filings. The commission
 690 shall, from time to time, adopt findings as to the accuracy or
 691 reliability of particular methods, principles, standards,
 692 models, or output ranges.

693 (b) The commission shall consider any actuarial methods,
 694 principles, standards, or models that have the potential for
 695 improving the accuracy ~~of~~ or reliability of projecting probable
 696 maximum loss levels. The commission shall adopt findings as to

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697 the accuracy or reliability of particular methods, principles,
698 standards, or models related to probable maximum loss
699 calculations. The commission shall review models for accuracy of
700 use when establishing wind mitigation discounts.

701 Section 7. Subsections (1) and (6) of section 627.0629,
702 Florida Statutes, are amended to read:

703 627.0629 Residential property insurance; rate filings.—

704 (1) It is the intent of the Legislature that insurers
705 provide savings to consumers who install or implement windstorm
706 damage mitigation techniques, alterations, or solutions to their
707 properties to prevent windstorm losses. A rate filing for
708 residential property insurance must include notice of the
709 mitigation discounts offered by the insurer, which must be
710 actuarially reasonable discounts, credits, or other rate
711 differentials, or appropriate reductions in deductibles, for
712 properties on which fixtures or construction techniques
713 demonstrated to reduce the amount of loss in a windstorm have
714 been installed or implemented. The fixtures or construction
715 techniques must include, but are not limited to, fixtures or
716 construction techniques that enhance roof strength, roof
717 covering performance, roof-to-wall strength, wall-to-floor-to-
718 foundation strength, ~~opening protection,~~ and the impact
719 resistance of window, door, and skylight openings strength.
720 Credits, discounts, or other rate differentials, or appropriate
721 reductions in deductibles, for fixtures and construction
722 techniques that meet the minimum requirements of the Florida
723 Building Code must be included in the rate filing. ~~The office~~
724 ~~shall determine the discounts, credits, other rate~~
725 ~~differentials, and appropriate reductions in deductibles that~~

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726 ~~reflect the full actuarial value of such revaluation, which may~~
727 ~~be used by insurers in rate filings.~~

728 (6) The office may hold a public hearing for a ~~any~~ rate
729 filing that is based in whole or in part on data from a computer
730 model which exceeds ~~may not exceed~~ 15 percent in counties the
731 office determines do not have a reasonable degree of competition
732 ~~unless there is a public hearing.~~

733 Section 8. Section 627.171, Florida Statutes, is amended to
734 read:

735 627.171 Excess rates.—

736 (1) With the written consent of the insured signed before
737 ~~prior to~~ the policy inception date and filed with the insurer,
738 the insurer may use a rate in excess of the otherwise applicable
739 filed rate on any specific risk. The signed consent form is
740 valid for subsequent renewals and must include the filed rate as
741 well as the excess rate for the risk insured.~~7 and~~ A copy of the
742 form must be maintained by the insurer for 3 years and be
743 available for review by the office.

744 (2) In those counties in which the office has determined
745 there is not a reasonable degree of competition, an insurer may
746 not use excess rates authorized under ~~pursuant to~~ this section
747 for more than 10 percent of its commercial insurance policies
748 written or renewed in each calendar year for any line of
749 commercial insurance or for more than 5 percent of its personal
750 lines insurance policies written or renewed in each calendar
751 year for any line of personal insurance. In determining the 10-
752 percent limitation for commercial insurance policies, the
753 insurer shall exclude a ~~any~~ workers' compensation policy that
754 was written for an employer who had coverage in the joint

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755 underwriting plan created by s. 627.311(5) immediately before
756 ~~prior to~~ the writing of the policy by the insurer and a any
757 workers' compensation policy that was written for an employer
758 who had been offered coverage in the joint underwriting plan but
759 who was written a policy by the insurer in lieu of accepting the
760 joint underwriting plan policy. Such ~~These~~ workers' compensation
761 policies shall be excluded from the 10-percent limitation for
762 the first 3 years of coverage.

763 Section 9. Paragraphs (a), (b), (c), (g), (i), (m), (q),
764 and (z) of subsection (6) of section 627.351, Florida Statutes,
765 are amended to read:

766 627.351 Insurance risk apportionment plans.—

767 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

771 1. The Legislature finds that private insurers are entering
772 the Florida property insurance market ~~unwilling or unable~~ to
773 provide affordable property insurance coverage in many regions
774 of the state. The Legislature further finds that when Citizens
775 Property Insurance Corporation offers rates that are not
776 adequate to cover the average costs that are generated from the
777 claims filed by its policyholders, the deficiency may create a
778 financial burden on all other state policyholders who must
779 purchase their own insurance from private insurers at full
780 actuarial cost and pay an added fee to cover a portion of the
781 cost for claims filed by policyholders of the corporation. The
782 Legislature intends that the corporation not act as a barrier or
783 competitor to the private insurance market but be available to

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784 residents of in this state only if there is no private market
785 coverage available at rates determined reasonable by the Office
786 of Insurance Regulation to the extent sought and needed. The
787 absence of ~~affordable~~ property insurance threatens the public
788 health, safety, and welfare and likewise threatens the economic
789 health of the state. As the corporation has continued its rapid
790 growth and exposure, it increasingly threatens state residents
791 with having to absorb an even greater financial burden than they
792 are currently bearing. The state, therefore, has a compelling
793 public interest and a public purpose to assist in assuring that
794 property in the state is insured and ~~that it is~~ insured at
795 affordable, actuarially sound, noncompetitive rates so as to
796 facilitate the remediation, reconstruction, and replacement of
797 damaged or destroyed property without overburdening the
798 policyholders of this state in order to reduce or avoid ~~the~~
799 negative effects on otherwise resulting to the public health,
800 safety, and welfare; on, to the economy of the state; and on,
801 ~~and to~~ the revenues of the state and local governments which are
802 needed to provide for the public welfare. It is necessary,
803 therefore, to make provide affordable, actuarially sound,
804 noncompetitive property insurance available to applicants who
805 are, in good faith, entitled to procure insurance through the
806 voluntary market but are unable to do so. The Legislature
807 intends, therefore, that affordable, actuarially sound,
808 noncompetitive property insurance be provided and ~~that it~~
809 continue to be provided, as long as necessary, through Citizens
810 Property Insurance Corporation, a government entity that is an
811 integral part of the state, ~~and that is~~ not a private insurance
812 company, or through referrals to private insurers participating

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813 in a clearinghouse established by the corporation. To that end,
814 the corporation shall strive to promote ~~increase~~ the
815 availability of affordable and actuarially sound private
816 property insurance in this state, supplemented by coverage
817 provided by the corporation if appropriate, while achieving
818 efficiencies and economies, ~~and while~~ providing service to
819 policyholders, applicants, and agents which is no less than the
820 quality generally provided in the voluntary market, for the
821 achievement of the foregoing public purposes. Because it is
822 essential for this government entity to have the maximum
823 financial resources to pay claims following a catastrophic
824 hurricane, it is further the intent of the Legislature that the
825 corporation continue to be an integral part of the state and not
826 a private insurance company, ~~and~~ that the income of the
827 corporation be exempt from federal income taxation, and that
828 interest on the debt obligations issued by the corporation be
829 exempt from federal income taxation.

830 2. The Residential Property and Casualty Joint Underwriting
831 Association originally created by this statute shall be known as
832 the Citizens Property Insurance Corporation. The corporation
833 shall provide ~~insurance for~~ residential and commercial property
834 insurance, for applicants who are eligible ~~entitled,~~ but, in
835 good faith, are unable to procure insurance through the
836 voluntary market. The corporation shall operate pursuant to a
837 plan of operation approved by order of the Financial Services
838 Commission. The plan is subject to continuous review by the
839 commission, and, ~~the~~ commission may, by order, withdraw approval
840 of all or part of a plan if the commission determines that
841 conditions have changed since approval was granted and that the

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842 purposes of the plan require changes in the plan. For the
843 purposes of this subsection, residential coverage includes both
844 personal lines residential coverage, which consists of the type
845 of coverage provided by homeowner's, mobile home owner's,
846 dwelling, tenant's, condominium unit owner's, and similar
847 policies; and commercial lines residential coverage, which
848 consists of the type of coverage provided by condominium
849 association, apartment building, and similar policies.

850 3. With respect to coverage for personal lines residential
851 structures:

852 a. Effective January 1, 2014 ~~2009~~, a personal lines
853 residential structure that has a dwelling replacement cost of \$1
854 ~~\$2~~ million or more, or a single condominium unit that has a
855 combined dwelling and contents replacement cost of \$1 ~~\$2~~ million
856 or more is not eligible for coverage by the corporation. Such
857 dwellings insured by the corporation on December 31, 2013 ~~2008~~,
858 may continue to be covered by the corporation until the end of
859 the policy term. ~~However, such dwellings may reapply and obtain~~
860 ~~coverage if the property owner provides the corporation with a~~
861 ~~sworn affidavit from one or more insurance agents, on a form~~
862 ~~provided by the corporation, stating that the agents have made~~
863 ~~their best efforts to obtain coverage and that the property has~~
864 ~~been rejected for coverage by at least one authorized insurer~~
865 ~~and at least three surplus lines insurers. If such conditions~~
866 ~~are met, the dwelling may be insured by the corporation for up~~
867 ~~to 3 years, after which time the dwelling is ineligible for~~
868 ~~coverage.~~ The office shall approve the method used by the
869 corporation for valuing ~~the~~ dwelling replacement costs under
870 ~~cost for the purposes of~~ this subparagraph. If a policyholder is

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871 insured by the corporation before ~~prior to~~ being determined ~~to~~
872 ~~be~~ ineligible pursuant to this subparagraph and such
873 policyholder files a lawsuit challenging the determination, the
874 policyholder may remain insured by the corporation until the
875 conclusion of the litigation.

876 b. Effective January 1, 2015, a structure that has a
877 dwelling replacement cost of \$900,000 or more, or a single
878 condominium unit that has a combined dwelling and contents
879 replacement cost of \$900,000 or more, is not eligible for
880 coverage by the corporation. Such dwellings insured by the
881 corporation on December 31, 2014, may continue to be covered by
882 the corporation until the end of the policy term.

883 c. Effective January 1, 2016, a structure that has a
884 dwelling replacement cost of \$800,000 or more, or a single
885 condominium unit that has a combined dwelling and contents
886 replacement cost of \$800,000 or more, is not eligible for
887 coverage by the corporation. Such dwellings insured by the
888 corporation on December 31, 2015, may continue to be covered by
889 the corporation until the end of the policy term.

890 d. Effective January 1, 2017, a structure that has a
891 dwelling replacement cost of \$700,000 or more, or a single
892 condominium unit that has a combined dwelling and contents
893 replacement cost of \$700,000 or more, is not eligible for
894 coverage by the corporation. Such dwellings insured by the
895 corporation on December 31, 2016, may continue to be covered by
896 the corporation until the end of the policy term.

897 e. Effective January 1, 2018, a structure that has a
898 dwelling replacement cost of \$600,000 or more, or a single
899 condominium unit that has a combined dwelling and contents

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900 replacement cost of \$600,000 or more, is not eligible for
 901 coverage by the corporation. Such dwellings insured by the
 902 corporation on December 31, 2017, may continue to be covered by
 903 the corporation until the end of the policy term.

904 f. Effective January 1, 2019, a structure that has a
 905 dwelling replacement cost of \$500,000 or more, or a single
 906 condominium unit that has a combined dwelling and contents
 907 replacement cost of \$500,000 or more, is not eligible for
 908 coverage by the corporation. Such dwellings insured by the
 909 corporation on December 31, 2018, may continue to be covered by
 910 the corporation until the end of the policy term.

911 4. It is the intent of the Legislature that policyholders,
 912 applicants, and agents of the corporation receive service and
 913 treatment of the highest possible level but never less than that
 914 generally provided in the voluntary market. It is also intended
 915 that the corporation be held to service standards no less than
 916 those applied to insurers in the voluntary market by the office
 917 with respect to responsiveness, timeliness, customer courtesy,
 918 and overall dealings with policyholders, applicants, or agents
 919 of the corporation.

920 5. Any structure for which a notice of commencement has
 921 been issued on or after July 1, 2013, pursuant to s. 713.135,
 922 which is located seaward of the coastal construction control
 923 line created pursuant to s. 161.053, is ineligible for coverage
 924 through the corporation unless the structure meets the coastal
 925 code-plus building code criteria developed and recommended by
 926 the Florida Building Commission. ~~Effective January 1, 2009, a~~
 927 ~~personal lines residential structure that is located in the~~
 928 ~~"wind-borne debris region," as defined in s. 1609.2,~~

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929 ~~International Building Code (2006), and that has an insured~~
930 ~~value on the structure of \$750,000 or more is not eligible for~~
931 ~~coverage by the corporation unless the structure has opening~~
932 ~~protections as required under the Florida Building Code for a~~
933 ~~newly constructed residential structure in that area. A~~
934 ~~residential structure shall be deemed to comply with this~~
935 ~~subparagraph if it has shutters or opening protections on all~~
936 ~~openings and if such opening protections complied with the~~
937 ~~Florida Building Code at the time they were installed.~~

938 6. For any claim filed under any policy of the corporation,
939 a public adjuster may not charge, agree to, or accept any
940 compensation, payment, commission, fee, or other thing of value
941 greater than 10 percent of the additional amount actually paid
942 over the amount that was originally offered by the corporation
943 for any one claim.

944 (b)1. All insurers authorized to write one or more subject
945 lines of business in this state are subject to assessment by the
946 corporation and, for the purposes of this subsection, are
947 referred to collectively as "assessable insurers." Insurers
948 writing one or more subject lines of business in this state
949 pursuant to part VIII of chapter 626 are not assessable
950 insurers; however, ~~but~~ insureds who procure one or more subject
951 lines of business in this state pursuant to part VIII of chapter
952 626 are subject to assessment by the corporation and are
953 referred to collectively as "assessable insureds." An insurer's
954 assessment liability begins on the first day of the calendar
955 year following the year in which the insurer was issued a
956 certificate of authority to transact insurance for subject lines
957 of business in this state and terminates 1 year after the end of

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958 the first calendar year during which the insurer no longer holds
959 a certificate of authority to transact insurance for subject
960 lines of business in this state.

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

964 (I) A personal lines account for personal residential
965 policies issued by the corporation, or issued by the Residential
966 Property and Casualty Joint Underwriting Association and renewed
967 by the corporation, which provides comprehensive, multiperil
968 coverage on risks that are not located in areas eligible for
969 coverage by the Florida Windstorm Underwriting Association as
970 those areas were defined on January 1, 2002, and for policies
971 that do not provide coverage for the peril of wind on risks that
972 are located in such areas;

973 (II) A commercial lines account for commercial residential
974 and commercial nonresidential policies issued by the
975 corporation, or issued by the Residential Property and Casualty
976 Joint Underwriting Association and renewed by the corporation,
977 which provides coverage for basic property perils on risks that
978 are not located in areas eligible for coverage by the Florida
979 Windstorm Underwriting Association as those areas were defined
980 on January 1, 2002, and for policies that do not provide
981 coverage for the peril of wind on risks that are located in such
982 areas; and

983 (III) A coastal account for personal residential policies
984 and commercial residential and commercial nonresidential
985 property policies issued by the corporation, or transferred to
986 the corporation, which provides coverage for the peril of wind

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987 on risks that are located in areas eligible for coverage by the
988 Florida Windstorm Underwriting Association as those areas were
989 defined on January 1, 2002. The corporation may offer policies
990 that provide multiperil coverage and ~~the corporation~~ shall
991 ~~continue to~~ offer policies that provide coverage only for the
992 peril of wind for risks located in areas eligible for coverage
993 in the coastal account. In issuing multiperil coverage, the
994 corporation may use its approved policy forms and rates for the
995 personal lines account. An applicant or insured who is eligible
996 to purchase a multiperil policy from the corporation may
997 purchase a multiperil policy from an authorized insurer without
998 prejudice to the applicant's or insured's eligibility to
999 prospectively purchase a policy that provides coverage only for
1000 the peril of wind from the corporation. An applicant or insured
1001 who is eligible for a corporation policy that provides coverage
1002 only for the peril of wind may elect to purchase or retain such
1003 policy and also purchase or retain coverage excluding wind from
1004 an authorized insurer without prejudice to the applicant's or
1005 insured's eligibility to prospectively purchase a policy that
1006 provides multiperil coverage from the corporation. It is the
1007 goal of the Legislature that there be an overall average savings
1008 of 10 percent or more for a policyholder who currently has a
1009 wind-only policy with the corporation, and an ex-wind policy
1010 with a voluntary insurer or the corporation, and who obtains a
1011 multiperil policy from the corporation. It is the intent of the
1012 Legislature that the offer of multiperil coverage in the coastal
1013 account be made and implemented in a manner that does not
1014 adversely affect the tax-exempt status of the corporation or
1015 creditworthiness of or security for currently outstanding

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1016 financing obligations or credit facilities of the coastal
1017 account, the personal lines account, or the commercial lines
1018 account. ~~The coastal account must also include quota share~~
1019 ~~primary insurance under subparagraph (c)2.~~ The area eligible for
1020 coverage under the coastal account also includes the area within
1021 Port Canaveral, which is bordered on the south by the City of
1022 Cape Canaveral, bordered on the west by the Banana River, and
1023 bordered on the north by Federal Government property.

1024 b. The three separate accounts must be maintained as long
1025 as financing obligations entered into by the Florida Windstorm
1026 Underwriting Association or Residential Property and Casualty
1027 Joint Underwriting Association are outstanding, in accordance
1028 with the terms of the corresponding financing documents. If the
1029 financing obligations are no longer outstanding, the corporation
1030 may use a single account for all revenues, assets, liabilities,
1031 losses, and expenses of the corporation. Consistent with this
1032 subparagraph and prudent investment policies that minimize the
1033 cost of carrying debt, the board shall exercise its best efforts
1034 to retire existing debt or obtain the approval of necessary
1035 parties to amend the terms of existing debt, in order so as to
1036 structure the most efficient plan for consolidating ~~to~~
1037 ~~consolidate~~ the three separate accounts into a single account.

1038 c. Creditors of the Residential Property and Casualty Joint
1039 Underwriting Association and the accounts specified in sub-sub-
1040 subparagraphs a.(I) and (II) may have a claim against, and
1041 recourse to, those accounts and no claim against, or recourse
1042 to, the account referred to in sub-sub-subparagraph a.(III).
1043 Creditors of the Florida Windstorm Underwriting Association have
1044 a claim against, and recourse to, the account referred to in

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1045 sub-sub-subparagraph a.(III) and no claim against, or recourse
1046 to, the accounts referred to in sub-sub-subparagraphs a.(I) and
1047 (II).

1048 d. Revenues, assets, liabilities, losses, and expenses not
1049 attributable to particular accounts shall be prorated among the
1050 accounts.

1051 e. The Legislature finds that the revenues of the
1052 corporation are revenues that are necessary to meet the
1053 requirements set forth in documents authorizing the issuance of
1054 bonds under this subsection.

1055 f. The income of the corporation may not inure to the
1056 benefit of any private person.

1057 3. With respect to a deficit in an account:

1058 a. After accounting for the Citizens policyholder surcharge
1059 imposed under sub-subparagraph i., if the remaining projected
1060 deficit incurred in the coastal account in a particular calendar
1061 year:

1062 (I) Is not greater than 2 percent of the aggregate
1063 statewide direct written premium for the subject lines of
1064 business for the prior calendar year, the entire deficit shall
1065 be recovered through regular assessments of assessable insurers
1066 under paragraph (q) and assessable insureds.

1067 (II) Exceeds 2 percent of the aggregate statewide direct
1068 written premium for the subject lines of business for the prior
1069 calendar year, the corporation shall levy regular assessments on
1070 assessable insurers under paragraph (q) and on assessable
1071 insureds in an amount equal to the greater of 2 percent of the
1072 projected deficit or 2 percent of the aggregate statewide direct
1073 written premium for the subject lines of business for the prior

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1074 calendar year. Any remaining projected deficit shall be
1075 recovered through emergency assessments under sub-subparagraph
1076 d.

1077 b. Each assessable insurer's share of the amount being
1078 assessed under sub-subparagraph a. must be in the proportion
1079 that the assessable insurer's direct written premium for the
1080 subject lines of business for the year preceding the assessment
1081 bears to the aggregate statewide direct written premium for the
1082 subject lines of business for that year. The assessment
1083 percentage applicable to each assessable insured is the ratio of
1084 the amount being assessed under sub-subparagraph a. to the
1085 aggregate statewide direct written premium for the subject lines
1086 of business for the prior year. Assessments levied by the
1087 corporation on assessable insurers under sub-subparagraph a.
1088 must be paid as required by the corporation's plan of operation
1089 and paragraph (q). Assessments levied by the corporation on
1090 assessable insureds under sub-subparagraph a. shall be collected
1091 by the surplus lines agent at the time the surplus lines agent
1092 collects the surplus lines tax required by s. 626.932, and paid
1093 to the Florida Surplus Lines Service Office at the time the
1094 surplus lines agent pays the surplus lines tax to that office.
1095 Upon receipt of regular assessments from surplus lines agents,
1096 the Florida Surplus Lines Service Office shall transfer the
1097 assessments directly to the corporation as determined by the
1098 corporation.

1099 c. After accounting for the Citizens policyholder surcharge
1100 imposed under sub-subparagraph i., the remaining projected
1101 deficits in the personal lines account and in the commercial
1102 lines account in a particular calendar year shall be recovered

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1103 through emergency assessments under sub-subparagraph d.

1104 d. Upon a determination by the executive director, with the

1105 concurrence of the board of governors, that a projected deficit

1106 in an account exceeds the amount that is expected to be

1107 recovered through regular assessments under sub-subparagraph a.,

1108 plus the amount that is expected to be recovered through

1109 policyholder surcharges under sub-subparagraph i., the executive

1110 director, with concurrence by the board, after verification by

1111 the office and approval by the Financial Services Commission,

1112 shall levy emergency assessments for as many years as necessary

1113 to cover the deficits, to be collected by assessable insurers

1114 and the corporation and collected from assessable insureds upon

1115 issuance or renewal of policies for subject lines of business,

1116 excluding National Flood Insurance policies. The amount

1117 collected in a particular year must be a uniform percentage of

1118 that year's direct written premium for subject lines of business

1119 and all accounts of the corporation, excluding National Flood

1120 Insurance Program policy premiums, as annually determined by the

1121 executive director, with concurrence by the board, and verified

1122 by the office. The office shall verify the arithmetic

1123 calculations involved in the board's determination within 30

1124 days after receipt of the information on which the determination

1125 was based. The office shall notify assessable insurers and the

1126 Florida Surplus Lines Service Office of the date on which

1127 assessable insurers shall begin to collect and assessable

1128 insureds shall begin to pay such assessment. The date must be at

1129 least ~~may be not less than~~ 90 days after the date the

1130 corporation levies emergency assessments pursuant to this sub-

1131 subparagraph. Notwithstanding any other provision of law, the

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1132 corporation and each assessable insurer that writes subject
1133 lines of business shall collect emergency assessments from its
1134 policyholders without such obligation being affected by any
1135 credit, limitation, exemption, or deferment. Emergency
1136 assessments levied by the corporation on assessable insureds
1137 shall be collected by the surplus lines agent at the time the
1138 surplus lines agent collects the surplus lines tax required by
1139 s. 626.932 and paid to the Florida Surplus Lines Service Office
1140 at the time the surplus lines agent pays the surplus lines tax
1141 to that office. The emergency assessments collected shall be
1142 transferred directly to the corporation on a periodic basis as
1143 determined by the corporation and held by the corporation solely
1144 in the applicable account. The aggregate amount of emergency
1145 assessments levied for an account ~~under this sub-subparagraph~~ in
1146 any calendar year may be less than but not exceed the greater of
1147 10 percent of the amount needed to cover the deficit, plus
1148 interest, fees, commissions, required reserves, and other costs
1149 associated with financing the original deficit, or 10 percent of
1150 the aggregate statewide direct written premium for subject lines
1151 of business and all accounts of the corporation for the prior
1152 year, plus interest, fees, commissions, required reserves, and
1153 other costs associated with financing the deficit.

1154 e. The corporation may pledge the proceeds of assessments,
1155 projected recoveries from the Florida Hurricane Catastrophe
1156 Fund, other insurance and reinsurance recoverables, policyholder
1157 surcharges and other surcharges, and other funds available to
1158 the corporation as the source of revenue for and to secure bonds
1159 issued under paragraph (q), bonds or other indebtedness issued
1160 under subparagraph (c)3., or lines of credit or other financing

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1161 mechanisms issued or created under this subsection, or to retire
1162 any other debt incurred as a result of deficits or events giving
1163 rise to deficits, or in any other way that the executive
1164 director, with the concurrence of the board, determines will
1165 efficiently recover such deficits. The purpose of the lines of
1166 credit or other financing mechanisms is to provide additional
1167 resources to assist the corporation in covering claims and
1168 expenses attributable to a catastrophe. As used in this
1169 subsection, the term "assessments" includes regular assessments
1170 under sub-subparagraph a. or subparagraph (q)1. and emergency
1171 assessments under sub-subparagraph d. Emergency assessments
1172 collected under sub-subparagraph d. are not part of an insurer's
1173 rates, are not premium, and are not subject to premium tax,
1174 fees, or commissions; however, failure to pay the emergency
1175 assessment shall be treated as failure to pay premium. The
1176 emergency assessments ~~under sub-subparagraph d.~~ shall continue
1177 as long as any bonds issued or other indebtedness incurred with
1178 respect to a deficit for which the assessment was imposed remain
1179 outstanding, unless adequate provision has been made for the
1180 payment of such bonds or other indebtedness pursuant to the
1181 documents governing such bonds or indebtedness.

1182 f. As used in this subsection for purposes of any deficit
1183 incurred on or after January 25, 2007, the term "subject lines
1184 of business" means insurance written by assessable insurers or
1185 procured by assessable insureds for all property and casualty
1186 lines of business in this state, but not including workers'
1187 compensation or medical malpractice. As used in this sub-
1188 subparagraph, the term "property and casualty lines of business"
1189 includes all lines of business identified on Form 2, Exhibit of

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1190 Premiums and Losses, in the annual statement required of
1191 authorized insurers under s. 624.424 and any rule adopted under
1192 this section, except for those lines identified as accident and
1193 health insurance and except for policies written under the
1194 National Flood Insurance Program or the Federal Crop Insurance
1195 Program. For purposes of this sub-subparagraph, the term
1196 "workers' compensation" includes both workers' compensation
1197 insurance and excess workers' compensation insurance.

1198 g. The Florida Surplus Lines Service Office shall annually
1199 determine ~~annually~~ the aggregate statewide written premium in
1200 subject lines of business procured by assessable insureds and
1201 report that information to the corporation in a form and at a
1202 time the corporation specifies to ensure that the corporation
1203 can meet the requirements of this subsection and the
1204 corporation's financing obligations.

1205 h. The Florida Surplus Lines Service Office shall verify
1206 the proper application by surplus lines agents of assessment
1207 percentages for regular assessments and emergency assessments
1208 levied under this subparagraph on assessable insureds and assist
1209 the corporation in ensuring the accurate, timely collection and
1210 payment of assessments by surplus lines agents as required by
1211 the corporation.

1212 i. ~~In 2008 or thereafter,~~ Upon a determination by the board
1213 of governors that an account has a projected deficit, the board
1214 shall levy a Citizens policyholder surcharge against all
1215 policyholders of the corporation.

1216 (I) The surcharge shall be levied as a uniform percentage
1217 ~~of the premium for the policy~~ of up to 15 percent of the policy
1218 ~~such~~ premium, which funds shall be used to offset the deficit.

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1219 (II) The surcharge is payable upon cancellation or
1220 termination of the policy, upon renewal of the policy, or upon
1221 issuance of a new policy by the corporation within the first 12
1222 months after the date of the levy or the period of time
1223 necessary to fully collect the surcharge amount.

1224 (III) The corporation may not levy any regular assessments
1225 under paragraph (q) pursuant to sub-subparagraph a. or sub-
1226 subparagraph b. with respect to a particular year's deficit
1227 until the corporation has first levied the full amount of the
1228 surcharge authorized by this sub-subparagraph.

1229 (IV) The surcharge is not considered premium and is not
1230 subject to commissions, fees, or premium taxes. However, failure
1231 to pay the surcharge shall be treated as failure to pay premium.

1232 j. If the amount of any assessments or surcharges collected
1233 from corporation policyholders, assessable insurers or their
1234 policyholders, or assessable insureds exceeds the amount of the
1235 deficits, such excess amounts shall be remitted to and retained
1236 by the corporation in a reserve to be used by the corporation,
1237 as determined by the executive director, with the concurrence of
1238 the board of governors, and approved by the office, to pay
1239 claims or reduce any past, present, or future plan-year deficits
1240 or to reduce outstanding debt.

1241 (c) The corporation's plan of operation:

1242 1. Must provide for adoption of residential property and
1243 casualty insurance policy forms and commercial residential and
1244 nonresidential property insurance forms, which must be approved
1245 by the office before use. The corporation shall adopt the
1246 following policy forms:

1247 a. Standard personal lines policy forms that are

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1248 comprehensive multiperil policies providing full coverage of a
1249 residential property equivalent to the coverage provided in the
1250 private insurance market under an HO-3, HO-4, or HO-6 policy.

1251 b. Basic personal lines policy forms that are policies
1252 similar to an HO-8 policy or a dwelling fire policy that provide
1253 coverage meeting the requirements of the secondary mortgage
1254 market, but which is more limited than the coverage under a
1255 standard policy.

1256 c. Commercial lines residential and nonresidential policy
1257 forms that are generally similar to the basic perils of full
1258 coverage obtainable for commercial residential structures and
1259 commercial nonresidential structures in the admitted voluntary
1260 market.

1261 d. Personal lines and commercial lines residential property
1262 insurance forms that cover the peril of wind only. Such ~~The~~
1263 forms are applicable only to residential properties located in
1264 areas eligible for coverage under the coastal account referred
1265 to in sub-subparagraph (b)2.a.

1266 e. Commercial lines nonresidential property insurance forms
1267 that cover the peril of wind only. Such ~~The~~ forms are applicable
1268 only to nonresidential properties located in areas eligible for
1269 coverage under the coastal account referred to in sub-
1270 subparagraph (b)2.a.

1271 f. The corporation may adopt variations of the policy forms
1272 listed in sub-subparagraphs a.-e. which contain more restrictive
1273 coverage.

1274 g. Effective January 1, 2013, the corporation shall offer a
1275 basic personal lines policy similar to an HO-8 policy with
1276 dwelling repair based on common construction materials and

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1277 methods.

1278 2. Must provide that the corporation and an authorized
1279 insurer may enter into a risk-sharing agreement for the purpose
1280 of reducing the corporation's exposure. As used in this
1281 subparagraph, the term "risk-sharing agreement" means an
1282 agreement between the corporation and an authorized insurer for
1283 the corporation to retain part, but not all, of the risk for a
1284 specified group of policies or specified perils within a group
1285 of policies, as part of the terms for removal of policies from
1286 the corporation.

1287 a. Entering into a risk-sharing agreement is voluntary and
1288 at the discretion of the corporation and the authorized insurer.
1289 To avoid unnecessary expense, the executive director, with
1290 concurrence of the board of governors, may limit the
1291 corporation's participation in risk-sharing agreements to those
1292 participants capable and willing to assume a minimum of 25
1293 percent of the exposure on at least 100,000 policies and may
1294 specify other limitations. A risk-sharing agreement in which the
1295 corporation retains part of the risk may not exceed 5 years.

1296 b. The risk-sharing agreement may cover policies in any
1297 account and may cover any perils. The corporation may act as a
1298 reinsurer or a cedent under a risk sharing agreement or an
1299 excess of loss agreement. If the corporation is the reinsurer,
1300 the insurance policy forms and endorsements must be approved by
1301 the office, cover all perils that are the subject of the risk-
1302 sharing agreement, and cover at least the same limits as the
1303 corporation policies being replaced.

1304 c. The terms of each risk-sharing agreement must ensure
1305 that the consideration received by the corporation is

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1306 commensurate with the risk retained by the corporation and the
1307 risk assumed by the authorized insurer. The corporation may not
1308 share risk for bad faith.

1309 d. The risk-sharing agreement must specify the proportion
1310 of exposure that the authorized insurer reports to the Florida
1311 Hurricane Catastrophe Fund and the exposure retained by the
1312 corporation. Each shall pay premium and receive reimbursements
1313 from the fund for the exposure that they retain or assume as
1314 provided in the risk-sharing agreement. The risk retained or
1315 assumed is eligible for coverage by the fund and is not
1316 considered reinsurance for purposes of coverage by the fund.
1317 However, the authorized insurer and the corporation may report
1318 participation in the risk sharing agreement on their financial
1319 statements as reinsurance if appropriate according to the
1320 characteristics of the agreement based on statutory accounting
1321 rules and instructions.

1322 e. Notwithstanding any other provision of law:

1323 (I) Policies offered coverage by the corporation or an
1324 authorized insurer through a risk-sharing agreement are not
1325 eligible for coverage by the corporation outside of the
1326 agreement; and

1327 (II) A risk-sharing agreement between the corporation and
1328 an authorized insurer is not subject to the requirements of a
1329 take-out or keep-out program under ss. 627.3517 and this
1330 subsection, except that the agreement must be filed by the
1331 authorized insurer with the office for review and approval
1332 before the execution of the agreement by the insurer.

1333 f. To ensure that exposures are accurately reported to the
1334 Florida Hurricane Catastrophe Fund, the corporation and each

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1335 insurer participating in a risk-sharing agreement under this
1336 subparagraph must report its exposure under covered policies to
1337 the fund as required under s. 215.555(5)(c), including the
1338 requirement that, by September 1 of each year, each insurer
1339 notify the board of its insured values under covered policies as
1340 of June 30 of that year. Each report must also specify the
1341 percentage of liability applicable to the corporation and the
1342 percentage applicable to the insurer. Pursuant to its authority
1343 under s. 215.555, the State Board of Administration shall adopt
1344 rules to administer this sub-subparagraph.

1345 ~~2. Must provide that the corporation adopt a program in~~
1346 ~~which the corporation and authorized insurers enter into quota~~
1347 ~~share primary insurance agreements for hurricane coverage, as~~
1348 ~~defined in s. 627.4025(2)(a), for eligible risks, and adopt~~
1349 ~~property insurance forms for eligible risks which cover the~~
1350 ~~peril of wind only.~~

1351 ~~a. As used in this subsection, the term:~~

1352 ~~(I) "Quota share primary insurance" means an arrangement in~~
1353 ~~which the primary hurricane coverage of an eligible risk is~~
1354 ~~provided in specified percentages by the corporation and an~~
1355 ~~authorized insurer. The corporation and authorized insurer are~~
1356 ~~each solely responsible for a specified percentage of hurricane~~
1357 ~~coverage of an eligible risk as set forth in a quota share~~
1358 ~~primary insurance agreement between the corporation and an~~
1359 ~~authorized insurer and the insurance contract. The~~
1360 ~~responsibility of the corporation or authorized insurer to pay~~
1361 ~~its specified percentage of hurricane losses of an eligible~~
1362 ~~risk, as set forth in the agreement, may not be altered by the~~
1363 ~~inability of the other party to pay its specified percentage of~~

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1364 ~~losses. Eligible risks that are provided hurricane coverage~~
1365 ~~through a quota share primary insurance arrangement must be~~
1366 ~~provided policy forms that set forth the obligations of the~~
1367 ~~corporation and authorized insurer under the arrangement,~~
1368 ~~clearly specify the percentages of quota share primary insurance~~
1369 ~~provided by the corporation and authorized insurer, and~~
1370 ~~conspicuously and clearly state that the authorized insurer and~~
1371 ~~the corporation may not be held responsible beyond their~~
1372 ~~specified percentage of coverage of hurricane losses.~~

1373 ~~(II) "Eligible risks" means personal lines residential and~~
1374 ~~commercial lines residential risks that meet the underwriting~~
1375 ~~criteria of the corporation and are located in areas that were~~
1376 ~~eligible for coverage by the Florida Windstorm Underwriting~~
1377 ~~Association on January 1, 2002.~~

1378 ~~b. The corporation may enter into quota share primary~~
1379 ~~insurance agreements with authorized insurers at corporation~~
1380 ~~coverage levels of 90 percent and 50 percent.~~

1381 ~~e. If the corporation determines that additional coverage~~
1382 ~~levels are necessary to maximize participation in quota share~~
1383 ~~primary insurance agreements by authorized insurers, the~~
1384 ~~corporation may establish additional coverage levels. However,~~
1385 ~~the corporation's quota share primary insurance coverage level~~
1386 ~~may not exceed 90 percent.~~

1387 ~~d. Any quota share primary insurance agreement entered into~~
1388 ~~between an authorized insurer and the corporation must provide~~
1389 ~~for a uniform specified percentage of coverage of hurricane~~
1390 ~~losses, by county or territory as set forth by the corporation~~
1391 ~~board, for all eligible risks of the authorized insurer covered~~
1392 ~~under the agreement.~~

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1393 ~~e. Any quota share primary insurance agreement entered into~~
1394 ~~between an authorized insurer and the corporation is subject to~~
1395 ~~review and approval by the office. However, such agreement shall~~
1396 ~~be authorized only as to insurance contracts entered into~~
1397 ~~between an authorized insurer and an insured who is already~~
1398 ~~insured by the corporation for wind coverage.~~

1399 ~~f. For all eligible risks covered under quota share primary~~
1400 ~~insurance agreements, the exposure and coverage levels for both~~
1401 ~~the corporation and authorized insurers shall be reported by the~~
1402 ~~corporation to the Florida Hurricane Catastrophe Fund. For all~~
1403 ~~policies of eligible risks covered under such agreements, the~~
1404 ~~corporation and the authorized insurer must maintain complete~~
1405 ~~and accurate records for the purpose of exposure and loss~~
1406 ~~reimbursement audits as required by fund rules. The corporation~~
1407 ~~and the authorized insurer shall each maintain duplicate copies~~
1408 ~~of policy declaration pages and supporting claims documents.~~

1409 ~~g. The corporation board shall establish in its plan of~~
1410 ~~operation standards for quota share agreements which ensure that~~
1411 ~~there is no discriminatory application among insurers as to the~~
1412 ~~terms of the agreements, pricing of the agreements, incentive~~
1413 ~~provisions if any, and consideration paid for servicing policies~~
1414 ~~or adjusting claims.~~

1415 ~~h. The quota share primary insurance agreement between the~~
1416 ~~corporation and an authorized insurer must set forth the~~
1417 ~~specific terms under which coverage is provided, including, but~~
1418 ~~not limited to, the sale and servicing of policies issued under~~
1419 ~~the agreement by the insurance agent of the authorized insurer~~
1420 ~~producing the business, the reporting of information concerning~~
1421 ~~eligible risks, the payment of premium to the corporation, and~~

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1422 ~~arrangements for the adjustment and payment of hurricane claims~~
1423 ~~incurred on eligible risks by the claims adjuster and personnel~~
1424 ~~of the authorized insurer. Entering into a quota sharing~~
1425 ~~insurance agreement between the corporation and an authorized~~
1426 ~~insurer is voluntary and at the discretion of the authorized~~
1427 ~~insurer.~~

1428 3.a. May provide that the corporation ~~may employ or~~
1429 ~~otherwise contract with individuals or other entities to provide~~
1430 ~~administrative or professional services that may be appropriate~~
1431 ~~to effectuate the plan. The corporation may borrow funds by~~
1432 issuing bonds or by incurring other indebtedness, and shall have
1433 other powers reasonably necessary to effectuate the requirements
1434 of this subsection, including, without limitation, the power to
1435 issue bonds and incur other indebtedness in order to refinance
1436 outstanding bonds or other indebtedness. The corporation may
1437 seek judicial validation of its bonds or other indebtedness
1438 under chapter 75. The corporation may issue bonds or incur other
1439 indebtedness, or have bonds issued on its behalf by a unit of
1440 local government pursuant to subparagraph (q)2. in the absence
1441 of a hurricane or other weather-related event, upon a
1442 determination by the corporation, subject to approval by the
1443 office, that such action would enable it to efficiently meet the
1444 financial obligations of the corporation and that such
1445 financings are reasonably necessary to effectuate the
1446 requirements of this subsection. The corporation may take all
1447 actions needed to facilitate tax-free status for such bonds or
1448 indebtedness, including formation of trusts or other affiliated
1449 entities. The corporation may pledge assessments, projected
1450 recoveries from the Florida Hurricane Catastrophe Fund, other

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1451 reinsurance recoverables, Citizens policyholder surcharges and
1452 other surcharges, and other funds available to the corporation
1453 as security for bonds or other indebtedness. In recognition of
1454 s. 10, Art. I of the State Constitution, prohibiting the
1455 impairment of obligations of contracts, it is the intent of the
1456 Legislature that ~~no~~ action not be taken whose purpose is to
1457 impair any bond indenture or financing agreement or any revenue
1458 source committed by contract to such bond or other indebtedness.

1459 b. May provide that the corporation employ or otherwise
1460 contract with individuals or other entities to provide
1461 administrative or professional services that may be appropriate
1462 to effectuate the plan. To ensure that the corporation is
1463 operating in an efficient and economic manner while providing
1464 quality service to policyholders, applicants, and agents, the
1465 board shall commission an independent third-party consultant
1466 having expertise in insurance company management or insurance
1467 company management consulting to prepare a report and make
1468 recommendations on the relative costs and benefits of
1469 outsourcing various policy issuance and service functions to
1470 private servicing carriers or entities performing similar
1471 functions in the private market for a fee⁷ rather than
1472 performing such functions in-house. In making such
1473 recommendations, the consultant shall consider how other
1474 residual markets, both in this state and around the country,
1475 outsource appropriate functions or use servicing carriers to
1476 better match expenses with revenues that fluctuate based on a
1477 widely varying policy count. The report must be completed by
1478 July 1, 2012. Upon receiving the report, the executive director,
1479 with the concurrence of the board, shall develop a plan to

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1480 implement the report and submit the plan for review,
1481 modification, and approval to the Financial Services Commission.
1482 Upon the commission's approval of the plan, the board shall
1483 begin implementing the plan by January 1, 2013.

1484 4. Must require that the corporation operate subject to the
1485 supervision and approval of a board of governors consisting of
1486 eight individuals who are residents of this state and who are~~r~~
1487 from different geographical areas of the ~~this~~ state.

1488 a. The Governor, the Chief Financial Officer, the President
1489 of the Senate, and the Speaker of the House of Representatives
1490 shall each appoint two members of the board. All board members,
1491 except those appointed by the speaker, must be confirmed by the
1492 Senate during the legislative session following their
1493 appointment. At least one of the two members appointed by each
1494 appointing officer must have demonstrated expertise in insurance
1495 and must be ~~is~~ deemed to be within the scope of the exemption
1496 provided under ~~in~~ s. 112.313(7)(b). The Chief Financial Officer
1497 shall designate one of the appointees as chair for the purpose
1498 of presiding over the orderly conduct of meetings. An appointee
1499 serves as chair for no more than one term. All board members
1500 serve at the pleasure of the appointing officer. All members of
1501 the board are subject to removal at will by the officers who
1502 appointed them. All board members, including the chair, shall
1503 ~~must~~ be appointed ~~to serve~~ for 3-year terms beginning annually
1504 on a date designated by the plan. ~~However, for the first term~~
1505 ~~beginning on or after July 1, 2009, each appointing officer~~
1506 ~~shall appoint one member of the board for a 2-year term and one~~
1507 ~~member for a 3-year term.~~ A board vacancy shall be filled for
1508 the unexpired term by the appointing officer. A board member may

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1509 not serve for more than two terms, except that a board member
1510 appointed to fill an unexpired term created by a vacancy may be
1511 appointed for two subsequent terms. The Chief Financial Officer
1512 shall appoint a technical advisory group to provide information
1513 and advice to the executive director and the board in connection
1514 with the corporation's board's duties under this subsection. The
1515 executive director shall be appointed by and serve at the
1516 pleasure of the Governor and the Chief Financial Officer. ~~and~~
1517 Senior managers of the corporation shall be appointed by the
1518 executive director, with the concurrence of ~~engaged by~~ the
1519 board, and serve at the pleasure of the executive director
1520 ~~board.~~ Appointment of the Any executive director ~~appointed on or~~
1521 ~~after July 1, 2006,~~ is subject to confirmation by the Senate
1522 upon original appointment and upon the election or reelection of
1523 the Governor and Chief Financial Officer if retained. The
1524 executive director is responsible for employing other staff ~~as~~
1525 the corporation may require, subject to review and concurrence
1526 by the board.

1527 b. The board shall create a Market Accountability Advisory
1528 Committee to assist the corporation in developing awareness of
1529 its rates and its customer and agent service levels in
1530 relationship to the voluntary market insurers writing similar
1531 coverage.

1532 (I) The members of the advisory committee consist of the
1533 following 11 persons, one of whom must be elected chair by the
1534 members of the committee: four representatives, one appointed by
1535 the Florida Association of Insurance Agents, one by the Florida
1536 Association of Insurance and Financial Advisors, one by the
1537 Professional Insurance Agents of Florida, and one by the Latin

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1538 American Association of Insurance Agencies; three
1539 representatives appointed by the insurers with the three highest
1540 voluntary market share of residential property insurance
1541 business in the state; one representative from the Office of
1542 Insurance Regulation; one consumer appointed by the board who is
1543 insured by the corporation at the time of appointment to the
1544 committee; one representative appointed by the Florida
1545 Association of Realtors; and one representative appointed by the
1546 Florida Bankers Association. All members shall be appointed to
1547 3-year terms, serve at the pleasure of the board of governors,
1548 and may serve for consecutive terms.

1549 (II) The committee shall report to the corporation at each
1550 board meeting on insurance market issues that ~~which~~ may include
1551 rates and rate competition within ~~with~~ the voluntary market;
1552 service, including policy issuance, claims processing, and
1553 general responsiveness to policyholders, applicants, and agents;
1554 and matters relating to depopulation.

1555 5. Must provide a procedure for determining the eligibility
1556 of a risk for coverage by the corporation which applies to both
1557 new and renewal policies, as follows:

1558 a. Subject to s. 627.3517, with respect to personal lines
1559 residential risks, if the risk is offered coverage from an
1560 authorized insurer at the insurer's approved rate under a
1561 standard policy including wind coverage or, if consistent with
1562 the insurer's underwriting rules as filed with the office, a
1563 basic policy including wind coverage, ~~for a new application to~~
1564 ~~the corporation for coverage,~~ the risk is not eligible for any
1565 policy issued by the corporation unless the premium for coverage
1566 from the authorized insurer is more than 15 percent greater than

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1567 the premium for comparable coverage from the corporation. If the
1568 risk is not able to obtain such offer, the risk is eligible for
1569 a standard policy including wind coverage or a basic policy
1570 including wind coverage issued by the corporation; however, if
1571 the risk could not be insured under a standard policy including
1572 wind coverage regardless of market conditions, the risk is
1573 eligible for a basic policy including wind coverage unless
1574 rejected under subparagraph 8. ~~However, a policyholder of the~~
1575 ~~corporation or a policyholder removed from the corporation~~
1576 ~~through an assumption agreement until the end of the assumption~~
1577 ~~period remains eligible for coverage from the corporation~~
1578 ~~regardless of any offer of coverage from an authorized insurer~~
1579 ~~or surplus lines insurer.~~ The corporation shall determine the
1580 type of policy to be provided on the basis of objective
1581 standards specified in the underwriting manual and based on
1582 generally accepted underwriting practices.

1583 (I) If the risk accepts an offer of coverage through the
1584 market assistance plan or through a mechanism established by the
1585 corporation before a policy is issued to the risk by the
1586 corporation or during the first 30 days of coverage by the
1587 corporation, and the producing agent who submitted the
1588 application to the plan or to the corporation is not currently
1589 appointed by the insurer, the insurer shall:

1590 (A) Pay to the producing agent of record ~~of the policy~~ for
1591 the first year, an amount that is the greater of the insurer's
1592 usual and customary commission for the type of policy written or
1593 a fee equal to the usual and customary commission of the
1594 corporation; or

1595 (B) Offer to allow the producing agent of record ~~of the~~

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1596 ~~policy~~ to continue servicing the policy for at least 1 year and
1597 offer to pay the agent the greater of the insurer's or the
1598 corporation's usual and customary commission for the type of
1599 policy written.

1600

1601 If the producing agent is unwilling or unable to accept
1602 appointment, the new insurer shall pay the agent in accordance
1603 with sub-sub-sub-subparagraph (A).

1604 (II) If the corporation enters into a contractual agreement
1605 for a take-out plan, the producing agent of record of the
1606 corporation policy is entitled to retain any unearned commission
1607 on the policy, and the insurer shall:

1608 (A) Pay to the producing agent of record, for the first
1609 year, an amount that is the greater of the insurer's usual and
1610 customary commission for the type of policy written or a fee
1611 equal to the usual and customary commission of the corporation;
1612 or

1613 (B) Offer to allow the producing agent of record to
1614 continue servicing the policy for at least 1 year and offer to
1615 pay the agent the greater of the insurer's or the corporation's
1616 usual and customary commission for the type of policy written.

1617

1618 If the producing agent is unwilling or unable to accept
1619 appointment, the new insurer shall pay the agent in accordance
1620 with sub-sub-sub-subparagraph (A).

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

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1625 eligible for a policy issued by the corporation unless the
1626 premium for coverage from the authorized insurer is more than 15
1627 percent greater than the premium for comparable coverage from
1628 the corporation. If the risk is not able to obtain any such
1629 offer, the risk is eligible for a policy including wind coverage
1630 issued by the corporation. ~~However, a policyholder of the~~
1631 ~~corporation or a policyholder removed from the corporation~~
1632 ~~through an assumption agreement until the end of the assumption~~
1633 ~~period remains eligible for coverage from the corporation~~
1634 ~~regardless of an offer of coverage from an authorized insurer or~~
1635 ~~surplus lines insurer.~~

1636 (I) If the risk accepts an offer of coverage through the
1637 market assistance plan or through a mechanism established by the
1638 corporation before a policy is issued to the risk by the
1639 corporation or during the first 30 days of coverage by the
1640 corporation, and the producing agent who submitted the
1641 application to the plan or the corporation is not currently
1642 appointed by the insurer, the insurer shall:

1643 (A) Pay to the producing agent of record ~~of the policy~~, for
1644 the first year, an amount that is the greater of the insurer's
1645 usual and customary commission for the type of policy written or
1646 a fee equal to the usual and customary commission of the
1647 corporation; or

1648 (B) Offer to allow the producing agent of record ~~of the~~
1649 ~~policy~~ to continue servicing the policy for at least 1 year and
1650 offer to pay the agent the greater of the insurer's or the
1651 corporation's usual and customary commission for the type of
1652 policy written.

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1654 If the producing agent is unwilling or unable to accept
1655 appointment, the new insurer shall pay the agent in accordance
1656 with sub-sub-sub-subparagraph (A).

1657 (II) If the corporation enters into a contractual agreement
1658 for a take-out plan, the producing agent of record of the
1659 corporation policy is entitled to retain any unearned commission
1660 on the policy, and the insurer shall:

1661 (A) Pay to the producing agent of record, for the first
1662 year, an amount that is the greater of the insurer's usual and
1663 customary commission for the type of policy written or a fee
1664 equal to the usual and customary commission of the corporation;
1665 or

1666 (B) Offer to allow the producing agent of record to
1667 continue servicing the policy for at least 1 year and offer to
1668 pay the agent the greater of the insurer's or the corporation's
1669 usual and customary commission for the type of policy written.

1670

1671 If the producing agent is unwilling or unable to accept
1672 appointment, the new insurer shall pay the agent in accordance
1673 with sub-sub-sub-subparagraph (A).

1674 c. For purposes of determining comparable coverage under
1675 sub-subparagraphs a. and b., the comparison must be based on
1676 those forms and coverages that are reasonably comparable. The
1677 corporation may rely on a determination of comparable coverage
1678 and premium made by the producing agent who submits the
1679 application to the corporation, made in the agent's capacity as
1680 the corporation's agent. A comparison may be made solely of the
1681 premium with respect to the main building or structure ~~only~~ on
1682 the following basis: the same coverage A or other building

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1683 limits; the same percentage hurricane deductible that applies on
1684 an annual basis or that applies to each hurricane for commercial
1685 residential property; the same percentage of ordinance and law
1686 coverage, if the same limit is offered by both the corporation
1687 and the authorized insurer; the same mitigation credits, to the
1688 extent the same types of credits are offered both by the
1689 corporation and the authorized insurer; the same method for loss
1690 payment, such as replacement cost or actual cash value, if the
1691 same method is offered both by the corporation and the
1692 authorized insurer in accordance with underwriting rules; and
1693 any other form or coverage that is reasonably comparable as
1694 determined by the board. If an application is submitted to the
1695 corporation for wind-only coverage in the coastal account, the
1696 premium for the corporation's wind-only policy plus the premium
1697 for the ex-wind policy that is offered by an authorized insurer
1698 to the applicant must be compared to the premium for multiperil
1699 coverage offered by an authorized insurer, subject to the
1700 standards for comparison specified in this subparagraph. If the
1701 corporation or the applicant requests from the authorized
1702 insurer a breakdown of the premium of the offer by types of
1703 coverage so that a comparison may be made by the corporation or
1704 its agent and the authorized insurer refuses or is unable to
1705 provide such information, the corporation may treat the offer as
1706 not being an offer of coverage from an authorized insurer at the
1707 insurer's approved rate.

1708 6. Must include rules for classifications of risks and
1709 rates.

1710 7. Must provide that if premium and investment income for
1711 an account attributable to a particular calendar year are in

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1712 excess of projected losses and expenses for the account
1713 attributable to that year, such excess must ~~shall~~ be held in
1714 surplus in the account. Such surplus must be available to defray
1715 deficits in that account as to future years and used for that
1716 purpose before assessing assessable insurers and assessable
1717 insureds as to any calendar year.

1718 8. Must provide objective criteria and procedures that are
1719 ~~to be~~ uniformly applied to all applicants in determining whether
1720 an individual risk is so hazardous as to be uninsurable. In
1721 making this determination and in establishing the criteria and
1722 procedures, the following must be considered:

1723 a. Whether the likelihood of a loss for the individual risk
1724 is substantially higher than for other risks of the same class;
1725 and

1726 b. Whether the uncertainty associated with the individual
1727 risk is such that an appropriate premium cannot be determined.

1728
1729 The acceptance or rejection of a risk by the corporation shall
1730 be construed as the private placement of insurance, and the
1731 provisions of chapter 120 do not apply.

1732 9. Must provide that the corporation make its best efforts
1733 to procure catastrophe reinsurance at reasonable rates, to cover
1734 its projected 100-year probable maximum loss as determined by
1735 the board of governors.

1736 10. Must provide that the policies issued by the
1737 corporation ~~must~~ provide that if the corporation or the market
1738 assistance plan obtains an offer from an authorized insurer to
1739 cover the risk at its approved rates, the risk is no longer
1740 eligible for renewal through the corporation, except as

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1741 otherwise provided in this subsection.

1742 11. Must provide that corporation policies and applications
1743 ~~must~~ include a notice that the corporation policy could, under
1744 this section, be replaced with a policy issued by an authorized
1745 insurer which does not provide coverage identical to the
1746 coverage provided by the corporation. The notice must also
1747 specify that acceptance of corporation coverage creates a
1748 conclusive presumption that the applicant or policyholder is
1749 aware of this potential.

1750 12. May establish, subject to approval by the office,
1751 different eligibility requirements and operational procedures
1752 for any line or type of coverage for any specified county or
1753 area if the board determines that such changes are justified due
1754 to the voluntary market being sufficiently stable and
1755 competitive in such area or for such line or type of coverage
1756 and that consumers who, in good faith, are unable to obtain
1757 insurance through the voluntary market through ordinary methods
1758 continue to have access to coverage from the corporation. If
1759 coverage is sought in connection with a real property transfer,
1760 the requirements and procedures may not provide an effective
1761 date of coverage later than the date of the closing of the
1762 transfer as established by the transferor, the transferee, and,
1763 if applicable, the lender.

1764 13. Must provide that, with respect to the coastal account,
1765 any assessable insurer that has ~~with~~ a surplus as to
1766 policyholders of \$25 million or less writing 25 percent or more
1767 of its total countrywide property insurance premiums in this
1768 state may ~~petition the office~~, within the first 90 days of each
1769 calendar year, petition the office to qualify as a limited

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1770 apportionment company. A regular assessment levied by the
1771 corporation on a limited apportionment company for a deficit
1772 incurred by the corporation for the coastal account may be paid
1773 to the corporation on a monthly basis as the assessments are
1774 collected by the limited apportionment company from its
1775 insureds. The, ~~but a~~ limited apportionment company must begin
1776 collecting the regular assessments within ~~not later than~~ 90 days
1777 after the regular assessments are levied by the corporation, and
1778 the regular assessments must be paid in full within 15 months
1779 after being levied by the corporation. A limited apportionment
1780 company shall collect from its policyholders any emergency
1781 assessment imposed under sub-subparagraph (b)3.d. The plan must
1782 provide that, if the office determines that any regular
1783 assessment will result in an impairment of the surplus of a
1784 limited apportionment company, the office may direct that all or
1785 part of such assessment be deferred as provided in subparagraph
1786 (q)4. However, an emergency assessment to be collected from
1787 policyholders under sub-subparagraph (b)3.d. may not be limited
1788 or deferred.

1789 14. Must provide that the corporation appoint as its
1790 licensed agents only those agents who at the time of initial
1791 appointment also hold an appointment as defined in s. 626.015(3)
1792 with an insurer who ~~at the time of the agent's initial~~
1793 ~~appointment by the corporation~~ is authorized to write and is
1794 actually writing personal lines residential property coverage,
1795 commercial residential property coverage, or commercial
1796 nonresidential property coverage within the state. As a
1797 condition of continued appointment, agents of the corporation
1798 must maintain appropriate documentation specified by the

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1799 corporation which warrants and certifies that alternative
 1800 coverage was annually sought for each risk placed by that agent
 1801 with the corporation in accordance with s. 627.3518. After
 1802 January 1, 2014, if an agent places a policy with the
 1803 corporation which was ineligible for coverage based on
 1804 eligibility standards at the time of placement, agent
 1805 commissions may not be paid on that policy.

1806 15. Must provide a premium payment plan option to its
 1807 policyholders which, at a minimum, allows for quarterly and
 1808 semiannual payment of premiums. A monthly payment plan may, but
 1809 is not required to, be offered.

1810 16. Must limit coverage on mobile homes or manufactured
 1811 homes built before 1994 to actual cash value of the dwelling
 1812 rather than replacement costs of the dwelling.

1813 17. May provide such limits of coverage as the board
 1814 determines, consistent with the requirements of this subsection.

1815 18. May require commercial property to meet specified
 1816 hurricane mitigation construction features as a condition of
 1817 eligibility for coverage.

1818 19. Must provide that new or renewal policies issued by the
 1819 corporation on or after January 1, 2012, which cover sinkhole
 1820 loss do not include coverage for any loss to appurtenant
 1821 structures, driveways, sidewalks, decks, or patios that are
 1822 directly or indirectly caused by sinkhole activity. The
 1823 corporation shall exclude such coverage using a notice of
 1824 coverage change, which may be included with the policy renewal,
 1825 and not by issuance of a notice of nonrenewal of the excluded
 1826 coverage upon renewal of the current policy.

1827 20. Must, as of July ~~January~~ 1, 2014 ~~2012~~, ~~must~~ require

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1828 that the agent obtain from an applicant for coverage from the
1829 corporation an acknowledgment signed by the applicant, which
1830 includes, at a minimum, the following statement:

1831

1832 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE AND ASSESSMENT LIABILITY:

1833

1834 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
1835 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
1836 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
1837 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
1838 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE
1839 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT
1840 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
1841 LEGISLATURE.

1842 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER
1843 SURCHARGE, WHICH COULD BE AS HIGH AS 45 PERCENT OF MY PREMIUM,
1844 BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO
1845 BE ELIGIBLE FOR COVERAGE BY CITIZENS I MUST FIRST TRY TO OBTAIN
1846 PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE
1847 WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES
1848 ARE REGULATED AND APPROVED BY THE STATE.

1849 3.2. I ~~ALSO~~ UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
1850 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
1851 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
1852 FLORIDA LEGISLATURE.

1853 4.3. I ~~ALSO~~ UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
1854 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
1855 STATE OF FLORIDA.

1856 a. The corporation shall maintain, in electronic format or

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1857 otherwise, a copy of the applicant's signed acknowledgment and
1858 provide a copy of the statement to the policyholder as part of
1859 his or her ~~the first~~ renewal after the effective date of this
1860 subparagraph.

1861 b. The signed acknowledgment form creates a conclusive
1862 presumption that the policyholder understood and accepted his or
1863 her potential surcharge and assessment liability as a
1864 policyholder of the corporation.

1865 (g) The executive director, with the concurrence of the
1866 board, shall determine whether it is more cost-effective and in
1867 the best interests of the corporation to use legal services
1868 provided by in-house attorneys employed by the corporation
1869 rather than contracting with outside counsel. In making such
1870 determination, the board shall document its findings and ~~shall~~
1871 ~~consider~~ the expertise needed; whether time commitments exceed
1872 in-house staff resources; whether local representation is
1873 needed; the travel, lodging and other costs associated with in-
1874 house representation; and such other factors that the board
1875 determines are relevant.

1876 (i)1. The Office of the Internal Auditor is established
1877 within the corporation to provide a central point for
1878 coordination of and responsibility for activities that promote
1879 accountability, integrity, and efficiency to the policyholders
1880 and to the taxpayers of this state. The internal auditor shall
1881 be appointed by the board of governors, shall report to and be
1882 under the general supervision of the board of governors, and is
1883 not subject to supervision by an ~~any~~ employee of the
1884 corporation. Administrative staff and support shall be provided
1885 by the corporation. The internal auditor shall be appointed

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1886 without regard to political affiliation. It is the duty and
1887 responsibility of the internal auditor to:

1888 a. Provide direction for, supervise, conduct, and
1889 coordinate audits, investigations, and management reviews
1890 relating to the programs and operations of the corporation.

1891 b. Conduct, supervise, or coordinate other activities
1892 carried out or financed by the corporation for the purpose of
1893 promoting efficiency in the administration of, or preventing and
1894 detecting fraud, abuse, and mismanagement in, its programs and
1895 operations.

1896 c. Submit final audit reports, reviews, or investigative
1897 reports to the board of governors, the executive director, the
1898 members of the Financial Services Commission, and the President
1899 of the Senate and the Speaker of the House of Representatives.

1900 d. Keep the executive director and the board of governors
1901 informed concerning fraud, abuses, and internal control
1902 deficiencies relating to programs and operations administered or
1903 financed by the corporation, recommend corrective action, and
1904 report on the progress made in implementing corrective action.

1905 e. Report expeditiously to the Department of Law
1906 Enforcement or other law enforcement agencies, as appropriate,
1907 whenever the internal auditor has reasonable grounds to believe
1908 there has been a violation of criminal law.

1909 2. On or before February 15, the internal auditor shall
1910 prepare an annual report evaluating the effectiveness of the
1911 internal controls of the corporation and providing
1912 recommendations for corrective action, if necessary, and
1913 summarizing the audits, reviews, and investigations conducted by
1914 the office during the preceding fiscal year. The final report

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1915 shall be furnished to the board of governors and the executive
1916 director, the President of the Senate, the Speaker of the House
1917 of Representatives, and the Financial Services Commission.

1918 (m) 1. The Auditor General shall conduct an operational
1919 audit of the corporation annually ~~every 3 years~~ to evaluate
1920 management's performance in administering laws, policies, and
1921 procedures governing the operations of the corporation in an
1922 efficient and effective manner. The scope of the review must
1923 ~~shall~~ include, but is not limited to, evaluating claims
1924 handling, customer service, take-out programs and bonuses; ;
1925 financing arrangements made to address a 100-year probable
1926 maximum loss; personnel costs and administration; underwriting,
1927 including processes designed to ensure compliance with policy
1928 eligibility requirements of law; ; procurement of goods and
1929 services; ; internal controls; ; ~~and~~ the internal audit function;
1930 and related internal controls. A copy of the report shall be
1931 provided to the corporation's board, the President of the
1932 Senate, the Speaker of the House of Representatives, each member
1933 of the Financial Services Commission, and the Office of
1934 Insurance Regulation. The initial audit must be completed by
1935 February 1, ~~2009~~.

1936 2. The executive director, with the concurrence of the
1937 board, shall contract with an independent auditing firm to
1938 conduct a performance audit of the corporation every 2 years.
1939 The objectives of the audit include, but are not limited to, an
1940 evaluation, within the context of insurance industry best
1941 practices, of the corporation's strategic planning processes,
1942 the functionality of the corporation's organizational structure,
1943 the compensation levels of senior management, and the overall

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1944 management and operations of the corporation. A copy of the
1945 audit report shall be provided to the corporation's board, the
1946 President of the Senate, the Speaker of the House of
1947 Representatives, each member of the Financial Services
1948 Commission, the Office of Insurance Regulation, and the Auditor
1949 General. The initial audit must be completed by June 1, 2014.

1950 (q)1. The corporation shall certify to the office its needs
1951 for annual assessments as to a particular calendar year, and for
1952 any interim assessments that it deems ~~to be~~ necessary to sustain
1953 operations as to a particular year pending the receipt of annual
1954 assessments. Upon verification, the office shall approve such
1955 certification, and the corporation shall levy such annual or
1956 interim assessments. Such assessments shall be prorated as
1957 provided in paragraph (b). The corporation shall take all
1958 reasonable and prudent steps necessary to collect the amount of
1959 assessments due from each assessable insurer, including, if
1960 prudent, filing suit to collect the assessments, and the office
1961 may provide such assistance to the corporation it deems
1962 appropriate. If the corporation is unable to collect an
1963 assessment from any assessable insurer, the uncollected
1964 assessments shall be levied as an additional assessment against
1965 the assessable insurers and any assessable insurer required to
1966 pay an additional assessment as a result of such failure to pay
1967 shall have a cause of action against the ~~such~~ nonpaying
1968 assessable insurer. Assessments must ~~shall~~ be included ~~as an~~
1969 ~~appropriate factor~~ in the making of rates. The failure of a
1970 surplus lines agent to collect and remit any regular or
1971 emergency assessment levied by the corporation is ~~considered to~~
1972 ~~be~~ a violation of s. 626.936 and subjects the surplus lines

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1973 agent to the penalties provided in that section.

1974 2. The governing body of any unit of local government, any
1975 residents of which are insured by the corporation, may issue
1976 bonds as defined in s. 125.013 or s. 166.101 ~~from time to time~~
1977 to fund an assistance program, in conjunction with the
1978 corporation, for the purpose of defraying deficits of the
1979 corporation. In order to avoid needless and indiscriminate
1980 proliferation, duplication, and fragmentation of such assistance
1981 programs, the ~~any~~ unit of local government, ~~any residents of~~
1982 ~~which are insured by the corporation,~~ may provide for the
1983 payment of losses, regardless of whether or not the losses
1984 occurred within or outside of the territorial jurisdiction of
1985 the local government. Revenue bonds under this subparagraph may
1986 not be issued until validated pursuant to chapter 75, unless a
1987 state of emergency is declared by executive order or
1988 proclamation of the Governor pursuant to s. 252.36 which makes
1989 ~~making~~ such findings as are necessary to determine that it is in
1990 the best interests of, and necessary for, the protection of the
1991 public health, safety, and general welfare of residents of this
1992 state and declaring it an essential public purpose to permit
1993 certain municipalities or counties to issue such bonds as will
1994 permit relief to claimants and policyholders of the corporation.
1995 Any such unit of local government may enter into ~~such~~ contracts
1996 with the corporation and with any other entity created pursuant
1997 to this subsection as ~~are~~ necessary to carry out this paragraph.
1998 Any bonds issued are ~~under this subparagraph~~ shall be payable
1999 from and secured by moneys received by the corporation from
2000 emergency assessments under sub-subparagraph (b)3.d., and
2001 assigned and pledged to or on behalf of the unit of local

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2002 government for the benefit of the holders of such bonds. The
 2003 funds, credit, property, and taxing power of the state or of the
 2004 unit of local government may ~~shall~~ not be pledged for the
 2005 payment of such bonds.

2006 3.~~a~~. The corporation shall adopt one or more programs
 2007 subject to approval by the office for the reduction of both new
 2008 and renewal writings by ~~in~~ the corporation. The corporation may
 2009 consider any prudent and not unfairly discriminatory approach to
 2010 reducing corporation writings.

2011 a. The corporation may adopt a credit against assessment
 2012 liability or other liability which provides an incentive for
 2013 insurers to take and keep risks out of the corporation by
 2014 maintaining or increasing voluntary writings in counties or
 2015 areas in which corporation risks are highly concentrated, and a
 2016 program to provide a formula under which an insurer voluntarily
 2017 taking risks out of the corporation by maintaining or increasing
 2018 voluntary writings is relieved, wholly or partially, from
 2019 assessments under sub-subparagraph (b)3.a.

2020 b. Beginning January 1, 2008, Any program the corporation
 2021 adopts for the payment of bonuses to an insurer for each risk
 2022 the insurer removes from the corporation must ~~shall~~ comply with
 2023 s. 627.3511(2) and may not exceed the amount referenced in s.
 2024 627.3511(2) for each risk removed. ~~The corporation may consider~~
 2025 ~~any prudent and not unfairly discriminatory approach to reducing~~
 2026 ~~corporation writings, and may adopt a credit against assessment~~
 2027 ~~liability or other liability that provides an incentive for~~
 2028 ~~insurers to take risks out of the corporation and to keep risks~~
 2029 ~~out of the corporation by maintaining or increasing voluntary~~
 2030 ~~writings in counties or areas in which corporation risks are~~

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2031 ~~highly concentrated and a program to provide a formula under~~
 2032 ~~which an insurer voluntarily taking risks out of the corporation~~
 2033 ~~by maintaining or increasing voluntary writings will be relieved~~
 2034 ~~wholly or partially from assessments under sub-subparagraph~~
 2035 ~~(b)3.a. However,~~ Any "take-out bonus" or payment to an insurer
 2036 must be conditioned on the property being insured for at least 5
 2037 years by the insurer, unless canceled or nonrenewed by the
 2038 policyholder. If the policy is canceled or nonrenewed by the
 2039 policyholder before the end of the 5-year period, the amount of
 2040 the take-out bonus must be prorated for the time period the
 2041 policy was insured. If ~~When~~ the corporation enters into a
 2042 contractual agreement for a take-out plan, the producing agent
 2043 of record of the corporation policy is entitled to retain any
 2044 unearned commission on such policy, and the insurer shall
 2045 either:

2046 (I) Pay to the producing agent of record of the policy, for
 2047 the first year, an amount which is the greater of the insurer's
 2048 usual and customary commission for the type of policy written or
 2049 a policy fee equal to the usual and customary commission of the
 2050 corporation; or

2051 (II) Offer to allow the producing agent of record ~~of the~~
 2052 ~~policy~~ to continue servicing the policy for at least a period of
 2053 ~~not less than~~ 1 year and offer to pay the agent the insurer's
 2054 usual and customary commission for the type of policy written.
 2055 If the producing agent is unwilling or unable to accept
 2056 appointment by the new insurer, the new insurer shall pay the
 2057 agent in accordance with sub-sub-subparagraph (I).

2058 ~~c.b.~~ Any credit or exemption from regular assessments
 2059 adopted under this subparagraph shall last up to no longer than

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2060 ~~the~~ 3 years after ~~following~~ the cancellation or expiration of
2061 the policy by the corporation. With the approval of the office,
2062 the board may extend such credits for an additional year if the
2063 insurer guarantees an additional year of renewability for all
2064 policies removed from the corporation, or for 2 additional years
2065 if the insurer guarantees 2 additional years of renewability for
2066 all policies so removed.

2067 ~~d.e.~~ A ~~There shall be no~~ credit, limitation, exemption, or
2068 deferment from emergency assessments ~~to be~~ collected from
2069 policyholders pursuant to sub-subparagraph (b)3.d. is
2070 prohibited.

2071 4. The corporation plan shall provide for the deferment, in
2072 whole or in part, of the assessment of an assessable insurer,
2073 other than an emergency assessment collected from policyholders
2074 pursuant to sub-subparagraph (b)3.d., if the office finds that
2075 payment of the assessment would endanger or impair the solvency
2076 of the insurer. If ~~In the event~~ an assessment against an
2077 assessable insurer is deferred in whole or in part, the amount
2078 by which such assessment is deferred may be assessed against the
2079 other assessable insurers in a manner consistent with the basis
2080 for assessments set forth in paragraph (b).

2081 5. ~~Effective July 1, 2007,~~ In order to evaluate the costs
2082 and benefits of approved take-out plans, if the corporation pays
2083 a bonus or other payment to an insurer for an approved take-out
2084 plan, it shall maintain a record of the address or such other
2085 identifying information on the property or risk removed in order
2086 to track if and when the property or risk is later insured by
2087 the corporation.

2088 ~~6.~~ Any policy taken out, assumed, or removed from the

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2089 corporation is, as of the effective date of the take-out,
2090 assumption, or removal, direct insurance issued by the insurer
2091 and not by the corporation, even if the corporation continues to
2092 service the policies. This subparagraph applies to policies of
2093 the corporation and not policies taken out, assumed, or removed
2094 from any other entity.

2095 6. The corporation may adopt one or more programs to
2096 encourage authorized insurers to remove policies from the
2097 corporation through a loan from the corporation to an insurer
2098 secured by a surplus note that contains such necessary and
2099 reasonable provisions as the corporation requires. Such surplus
2100 note is subject to the review and approval of the office
2101 pursuant to s. 628.401. The corporation may include, but is not
2102 limited to, provisions regarding the maximum size of a loan to
2103 an insurer, capital matching requirements, the relationship
2104 between the aggregate number of policies or amount of loss
2105 exposure removed from the association and the amount of a loan,
2106 retention requirements related to policies removed from the
2107 corporation, and limitations on the number of insurers receiving
2108 loans from the corporation under any one management group in
2109 whatever form or arrangement. If a loan secured by a surplus
2110 note is provided to a new mutual insurance company, the
2111 corporation may require the board of the new mutual insurer to
2112 have a majority of independent board members, may restrict the
2113 ability of the new mutual insurer to convert to a stock insurer
2114 while the mutual insurer owes any principal or interest under
2115 the surplus note to the corporation, establish a capital match
2116 requirement of up to \$1 of private capital for each \$4 of the
2117 corporation's loan to a new mutual insurer, and limit the

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2118 eligibility of a new mutual insurer for a waiver of the ceding
2119 commission traditionally associated with take-out programs from
2120 the corporation to those new mutual insurers that agree
2121 contractually to maintain an expense ratio below 20 per cent of
2122 written premium. For this purpose, the term "expense ratio"
2123 means the sum of agent commissions and other acquisition
2124 expenses; general and administrative expenses; and premium
2125 taxes, licenses, and fees, divided by the gross written premium.

2126 (z) In enacting the provisions of this section, the
2127 Legislature recognizes that both the Florida Windstorm
2128 Underwriting Association and the Residential Property and
2129 Casualty Joint Underwriting Association have entered into
2130 financing arrangements that obligate each entity to service its
2131 debts and maintain the capacity to repay funds secured under
2132 these financing arrangements. It is the intent of the
2133 Legislature that ~~nothing in~~ this section not be construed to
2134 compromise, diminish, or interfere with the rights of creditors
2135 under such financing arrangements. It is further the intent of
2136 the Legislature to preserve the obligations of the Florida
2137 Windstorm Underwriting Association and Residential Property and
2138 Casualty Joint Underwriting Association with regard to
2139 outstanding financing arrangements, with such obligations
2140 passing entirely and unchanged to the corporation and,
2141 specifically, to the applicable account of the corporation. So
2142 long as any bonds, notes, indebtedness, or other financing
2143 obligations of the Florida Windstorm Underwriting Association or
2144 the Residential Property and Casualty Joint Underwriting
2145 Association are outstanding, under the terms of the financing
2146 documents pertaining to them, the executive director of the

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2147 corporation, with the concurrence of the governing board, of the
2148 ~~corporation~~ shall have and shall exercise the authority to levy,
2149 charge, collect, and receive all premiums, assessments,
2150 surcharges, charges, revenues, and receipts that the
2151 associations had authority to levy, charge, collect, or receive
2152 under the provisions of subsection (2) and this subsection,
2153 respectively, as they existed on January 1, 2002, to provide
2154 moneys, without exercise of the authority provided by this
2155 subsection, in at least the amounts, and by the times, as would
2156 be provided under those former provisions of subsection (2) or
2157 this subsection, respectively, so that the value, amount, and
2158 collectability of any assets, revenues, or revenue source
2159 pledged or committed to, or any lien thereon securing such
2160 outstanding bonds, notes, indebtedness, or other financing
2161 obligations is will not be diminished, impaired, or adversely
2162 affected by the amendments made by this section act and to
2163 permit compliance with all provisions of financing documents
2164 pertaining to such bonds, notes, indebtedness, or other
2165 financing obligations, or the security or credit enhancement for
2166 them, and any reference in this subsection to bonds, notes,
2167 indebtedness, financing obligations, or similar obligations, of
2168 the corporation must shall include like instruments or contracts
2169 of the Florida Windstorm Underwriting Association and the
2170 Residential Property and Casualty Joint Underwriting Association
2171 to the extent not inconsistent with the ~~provisions of the~~
2172 financing documents pertaining to them.

2173 Section 10. Effective October 1, 2013, paragraph (e) of
2174 subsection (6) of section 627.351, Florida Statutes, is amended
2175 to read

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2176 627.351 Insurance risk apportionment plans.—
2177 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—
2178 (e) The corporation is subject to s. 287.057 for the
2179 purchase of commodities and contractual services except as
2180 otherwise provided in this paragraph. Services provided by
2181 traders or technical experts to assist a licensed adjuster
2182 in the evaluation of individual claims are not subject to the
2183 procurement requirements of this section. Additionally, the
2184 procurement of financial services providers and underwriters
2185 must be made pursuant to s. 627.3513 ~~Purchases that equal or~~
2186 ~~exceed \$2,500, but are less than \$25,000, shall be made by~~
2187 ~~receipt of written quotes, written record of telephone quotes,~~
2188 ~~or informal bids, whenever practical. The procurement of goods~~
2189 ~~or services valued at or over \$25,000 shall be subject to~~
2190 ~~competitive solicitation, except in situations where the goods~~
2191 ~~or services are provided by a sole source or are deemed an~~
2192 ~~emergency purchase; the services are exempted from competitive~~
2193 ~~solicitation requirements under s. 287.057(3)(f); or the~~
2194 ~~procurement of services is subject to s. 627.3513. Justification~~
2195 ~~for the sole-sourcing or emergency procurement must be~~
2196 ~~documented.~~ Contracts for goods or services valued at or more
2197 than ~~over~~ \$100,000 are subject to approval by the board.
2198 1. The corporation is an agency for the purposes of s.
2199 287.057, except for subsection (22) of that section for which
2200 the corporation is an eligible user.
2201 a. The authority of the Department of Management Services
2202 and the Chief Financial Officer under s. 287.057 extends to the
2203 corporation as if the corporation were an agency.
2204 b. The executive director of the corporation is the agency

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2205 head under s. 287.057, except for resolution of bid protests for
2206 which the board would serve as the agency head.

2207 2. The corporation must provide notice of a decision or
2208 intended decision concerning a solicitation, contract award, or
2209 exceptional purchase by electronic posting. Such notice must
2210 contain the following statement: "Failure to file a protest
2211 within the time prescribed in this section constitutes a waiver
2212 of proceedings."

2213 a. A person adversely affected by the corporation's
2214 decision or intended decision to award a contract pursuant to s.
2215 287.057(1) or s. 287.057(3)(c) who elects to challenge the
2216 decision must file a written notice of protest with the
2217 executive director of the corporation within 72 hours after the
2218 corporation posts a notice of its decision or intended decision.
2219 For a protest of the terms, conditions, and specifications
2220 contained in a solicitation, including any provisions governing
2221 the methods for ranking bids, proposals, replies, awarding
2222 contracts, reserving rights of further negotiation, or modifying
2223 or amending any contract, the notice of protest must be filed in
2224 writing within 72 hours after the posting of the solicitation.
2225 Saturdays, Sundays, and state holidays are excluded in the
2226 computation of the 72-hour time period.

2227 b. A formal written protest must be filed within 10 days
2228 after the date the notice of protest is filed. The formal
2229 written protest must state with particularity the facts and law
2230 upon which the protest is based. Upon receipt of a formal
2231 written protest that has been timely filed, the corporation must
2232 stop the solicitation or contract award process until the
2233 subject of the protest is resolved by final board action unless

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2234 the executive director sets forth in writing particular facts
2235 and circumstances that require the continuance of the
2236 solicitation or contract award process without delay in order to
2237 avoid an immediate and serious danger to the public health,
2238 safety, or welfare. The corporation must provide an opportunity
2239 to resolve the protest by mutual agreement between the parties
2240 within 7 business days after receipt of the formal written
2241 protest. If the subject of a protest is not resolved by mutual
2242 agreement within 7 business days, the corporation's board must
2243 place the protest on the agenda and resolve it at its next
2244 regularly scheduled meeting. The protest must be heard by the
2245 board at a publicly noticed meeting in accordance with
2246 procedures established by the board.

2247 c. In a protest of an invitation-to-bid or request-for-
2248 proposals procurement, submissions made after the bid or
2249 proposal opening which amend or supplement the bid or proposal
2250 may not be considered. In protesting an invitation-to-negotiate
2251 procurement, submissions made after the corporation announces
2252 its intent to award a contract, reject all replies, or withdraw
2253 the solicitation that amends or supplements the reply may not be
2254 considered. Unless otherwise provided by law, the burden of
2255 proof rests with the party protesting the corporation's action.
2256 In a competitive-procurement protest, other than a rejection of
2257 all bids, proposals, or replies, the corporation's board must
2258 conduct a de novo proceeding to determine whether the
2259 corporation's proposed action is contrary to the corporation's
2260 governing statutes, the corporation's rules or policies, or the
2261 solicitation specifications. The standard of proof for the
2262 proceeding is whether the corporation's action was clearly

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2263 erroneous, contrary to competition, arbitrary, or capricious. In
2264 any bid-protest proceeding contesting an intended corporation
2265 action to reject all bids, proposals, or replies, the standard
2266 of review by the board is whether the corporation's intended
2267 action is illegal, arbitrary, dishonest, or fraudulent.

2268 d. Failure to file a notice of protest or failure to file a
2269 formal written protest constitutes a waiver of proceedings.

2270 3. Contract actions and decisions by the board under this
2271 paragraph are final. Any further legal remedy must be made in
2272 the Circuit Court of Leon County.

2273 Section 11. The purchase of commodities and contractual
2274 services by Citizens Property Insurance Corporation commenced
2275 before October 1, 2013, is governed by the law in effect on
2276 September 30, 2013.

2277 Section 12. Effective January 1, 2014, paragraph (n) of
2278 subsection (6) of section 627.351, Florida Statutes, is amended
2279 to read:

2280 627.351 Insurance risk apportionment plans.—

2281 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

2282 (n)1. ~~Rates for coverage provided by the corporation must~~
2283 ~~be actuarially sound and subject to s. 627.062, Except as~~
2284 ~~otherwise provided in this paragraph, rates for coverage~~
2285 ~~provided by the corporation must be actuarially sound and not~~
2286 ~~competitive with approved rates charged in the admitted~~
2287 ~~voluntary market in order for the corporation to function as a~~
2288 ~~residual market mechanism that provides insurance only if~~
2289 ~~insurance cannot be procured in the voluntary market.~~

2290 a. In establishing actuarially sound rates the corporation
2291 shall include an appropriate catastrophe risk load factor that

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2292 reflects the actual catastrophic risk exposure retained by the
2293 corporation.

2294 b. In establishing noncompetitive rates for personal and
2295 commercial lines residential policies, the average rates of the
2296 corporation for each rating territory may not be less than the
2297 average rates charged by the insurer that had the highest
2298 average rate in that rating territory among the 20 voluntary
2299 admitted insurers with the greatest total direct written premium
2300 in the state for that line of business in the preceding year.

2301 c. In establishing noncompetitive rates for mobile home
2302 coverage, the average rates of the corporation may not be less
2303 than the average rates charged by the insurer that had the
2304 highest average rate in that rating territory among the five
2305 voluntary admitted insurers with the greatest total written
2306 premium for mobile home owner's policies in the state in the
2307 preceding year. The corporation shall file its recommended rates
2308 with the office at least annually. ~~The corporation shall provide~~
2309 ~~any additional information regarding the rates which the office~~
2310 ~~requires. The office shall consider the recommendations of the~~
2311 ~~board and issue a final order establishing the rates for the~~
2312 ~~corporation within 45 days after the recommended rates are~~
2313 ~~filed. The corporation may not pursue an administrative~~
2314 ~~challenge or judicial review of the final order of the office.~~

2315 d. Rates for commercial nonresidential policies must be
2316 actuarially sound in accordance with sub-subparagraph a.

2317 e. The requirements of sub-subparagraphs b. and c. do not
2318 apply to rates in territories where the office determines there
2319 is not a reasonable degree of competition. In such territories
2320 the corporation's rates must be actuarially sound in accordance

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2321 with sub-subparagraph a.

2322 2. In addition to the rates otherwise determined pursuant
2323 to this paragraph, the corporation shall impose and collect an
2324 amount equal to the premium tax provided in s. 624.509 to
2325 augment the financial resources of the corporation.

2326 ~~3. After the public hurricane loss-projection model under
2327 s. 627.06281 has been found to be accurate and reliable by the
2328 Florida Commission on Hurricane Loss Projection Methodology, the
2329 model shall serve as the minimum benchmark for determining the
2330 windstorm portion of the corporation's rates. This subparagraph
2331 does not require or allow the corporation to adopt rates lower
2332 than the rates otherwise required or allowed by this paragraph.~~

2333 ~~4. The rate filings for the corporation which were approved
2334 by the office and took effect January 1, 2007, are rescinded,
2335 except for those rates that were lowered. As soon as possible,
2336 the corporation shall begin using the lower rates that were in
2337 effect on December 31, 2006, and provide refunds to
2338 policyholders who paid higher rates as a result of that rate
2339 filing. The rates in effect on December 31, 2006, remain in
2340 effect for the 2007 and 2008 calendar years except for any rate
2341 change that results in a lower rate. The next rate change that
2342 may increase rates shall take effect pursuant to a new rate
2343 filing recommended by the corporation and established by the
2344 office, subject to this paragraph.~~

2345 ~~5. Beginning on July 15, 2009, and annually thereafter, the
2346 corporation must make a recommended actuarially sound rate
2347 filing for each personal and commercial line of business it
2348 writes, to be effective no earlier than January 1, 2010.~~

2349 3.6. For policies initially insured by the corporation

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2350 before July 1, 2013, and which have continuously been insured by
 2351 the corporation since that date, ~~Beginning on or after January~~
 2352 1, 2010, and notwithstanding the board's recommended rates and
 2353 the office's final order regarding the corporation's filed rates
 2354 under subparagraph 1., the corporation shall annually implement
 2355 a rate increase that ~~which~~, except for sinkhole coverage, does
 2356 not exceed 10 percent for any territory ~~single policy issued by~~
 2357 the corporation, excluding coverage changes and surcharges. This
 2358 subparagraph is limited to:

2359 a. Personal lines residential policies that have a dwelling
 2360 replacement cost of less than \$300,000 and that cover homestead
 2361 personal residential properties or occupied permanent
 2362 residencies having a written rental agreement for at least 12
 2363 months.

2364 b. Personal lines residential wind-only policies that cover
 2365 homestead personal residential properties, or that are occupied
 2366 permanent residencies that have a written rental agreement for
 2367 no less than 12 months, and have a dwelling replacement cost of
 2368 less than:

2369 (1) \$1 million on July 1, 2013.

2370 (II) \$800,000 on January 1, 2014.

2371 (III) \$600,000 on January 1, 2015.

2372 c. Commercial lines residential properties.

2373 4. The corporation shall also implement the following:

2374 a.7. ~~The corporation may also implement~~ An increase to
 2375 reflect the effect on the corporation of the cash buildup factor
 2376 pursuant to s. 215.555(5)(b).

2377 b. An increase of up to 3 percent, which shall only be used
 2378 to purchase catastrophe reinsurance or other risk transfer

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2379 mechanisms for purposes of protecting the corporation and its
2380 policyholders from potential shortfalls and assessments. In any
2381 year for which the full 3 percent increase is imposed, there
2382 must also be a corresponding 3 percent decrease, 1 percent per
2383 account, from the Citizens policyholder surcharge in (b)3.i.,
2384 for that year.

2385 ~~5.8.~~ The corporation's implementation of rates as
2386 prescribed in subparagraph 3. 6. shall cease for any line of
2387 business written by the corporation upon the corporation's
2388 implementation of the rates described in subparagraph 1.
2389 ~~actuarially sound rates.~~ Thereafter, the corporation shall
2390 annually make a ~~recommended actuarially sound~~ rate filing
2391 implementing such rates for each ~~commercial and personal~~ line of
2392 business the corporation writes.

2393 6. The corporation shall annually certify to the office
2394 that its rates comply with the requirements of this paragraph.
2395 If any adjustment in the rates or rating factors of the
2396 corporation is necessary to ensure such compliance, the
2397 corporation shall make and implement such adjustments and file
2398 its revised rates and rating factors with the office. If the
2399 office thereafter determines that the revised rates and rating
2400 factors fail to comply with this paragraph, it shall notify the
2401 corporation and require the corporation to amend its rates or
2402 rating factors in conjunction with its next rate filing. The
2403 office must notify the corporation by electronic means of any
2404 rate filing it approves for any insurer among the insurers
2405 referred to in this paragraph.

2406 7. By January 1, 2014, the board shall provide
2407 recommendations to the Legislature on how to provide relief to a

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2408 policyholder whose premium reflects the full rate required under
2409 subparagraph 1. and who demonstrates a financial need at the
2410 time of application or renewal.

2411 Section 13. Section 627.3518, Florida Statutes, is created
2412 to read:

2413 627.3518 Citizens Property Insurance Corporation
2414 clearinghouse.—The Legislature recognizes that Citizens Property
2415 Insurance Corporation has authority to establish a clearinghouse
2416 as a separate organizational unit within the corporation for the
2417 purpose of determining the eligibility of new and renewal risks,
2418 excluding commercial residential, seeking coverage through the
2419 corporation and facilitating the identification and diversion of
2420 ineligible applicants and current policyholders from the
2421 corporation into the voluntary insurance market. The purpose of
2422 this section is to augment that authority by providing a
2423 framework for the corporation to implement such program by July
2424 1, 2013.

2425 (1) DEFINITIONS.—As used in this section, the term:

2426 (a) "Clearinghouse" means the clearinghouse diversion
2427 program created under this section.

2428 (b) "Corporation" means Citizens Property Insurance
2429 Corporation.

2430 (c) "Exclusive agent" means any licensed insurance agent
2431 who has, by contract, agreed to act exclusively for one company
2432 or group of affiliated insurance companies, and who is
2433 disallowed by that contract to directly write for any other
2434 unaffiliated insurer absent express consent from the company or
2435 group of affiliated companies.

2436 (d) "Independent agent" means a licensed insurance agent

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2437 who is not required by contract to act only on behalf of one
2438 company or group of affiliated insurance companies.

2439 (2) The clearinghouse shall have all the rights and
2440 responsibilities in carrying out its duties as a licensed
2441 general lines agent, but is not required to employ or engage a
2442 licensed general lines agent or maintain an insurance agency
2443 license in order to solicit and place insurance coverage. In
2444 establishing the clearinghouse the corporation:

2445 (a) Shall require all new applications for coverage and all
2446 policies up for renewal to be submitted to the clearinghouse to
2447 facilitate obtaining an offer of coverage from an authorized
2448 insurer before binding or renewing coverage with the
2449 corporation.

2450 (b) Shall develop an enhanced application for obtaining
2451 information that will assist private insurers in determining
2452 whether or not to make an offer of coverage through the
2453 clearinghouse.

2454 (c) Shall require all new applications for coverage to be
2455 subject to a 48-hour period that allows a private insurer
2456 participating in the clearinghouse to select applicants for
2457 coverage before the application is submitted to the corporation
2458 for coverage. The insurer may issue a binder to a selected
2459 applicant for at least 30 days, but not more than 60 days.

2460 (d) Notwithstanding s. 626.916(1), if an applicant for new
2461 or renewal coverage from the corporation does not receive an
2462 offer of coverage from an admitted insurer, the applicant may
2463 accept an offer from a surplus lines insurer eligible under ss.
2464 626.913-626.937.

2465 (e) Shall provide funds to operate the clearinghouse. The

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2466 corporation may charge a reasonable fee as a percentage of an
2467 agent's commission to offset, or partially offset the costs of
2468 the clearinghouse. However, insurers participating in the
2469 clearinghouse are not required to pay a fee to use the
2470 clearinghouse to renew policies initially written through the
2471 clearinghouse.

2472 (f) Shall enter into contracts with licensed property
2473 insurance companies operating in this state to participate in
2474 the clearinghouse and accept appointments from voluntary market
2475 insurers.

2476 (g) May employ or otherwise contract with individuals or
2477 other entities to provide administrative or professional
2478 services in accordance with purchasing requirements set forth in
2479 corporation's plan under s. 627.351(6)(c).

2480 (3) A licensed insurer may participate in the
2481 clearinghouse. Insurers making offers of coverage to new
2482 applicants or renewing policyholders through the clearinghouse:

2483 (a) Are not required to individually appoint an agent whose
2484 customer is bound and underwritten through the clearinghouse for
2485 as long as that policy remains with the insurer. Insurers may
2486 appoint an agent whose customer is initially underwritten and
2487 bound through the clearinghouse. If an insurer accepts a policy
2488 from an agent who is not appointed and thereafter elects to
2489 accept a policy from that agent which was not submitted through
2490 the program, the provisions of s. 626.112 requiring appointment
2491 apply to that agent.

2492 (b) Shall enter into a limited agency agreement with each
2493 agent whose customer is underwritten and bound through the
2494 clearinghouse and who is not appointed in accordance with this

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2495 subsection.

2496 (c) Shall enter into its standard agency agreement with
2497 each agent whose customer is underwritten and bound through the
2498 clearinghouse if that agent has been appointed by the insurer
2499 pursuant to s. 626.112.

2500 (d) Must comply with the s. 627.4133(2).

2501 (4) Notwithstanding section 627.3517, if an applicant for
2502 new coverage from the corporation is offered coverage from an
2503 admitted insurer through the clearinghouse or through an
2504 alternative option under subsection (7) at a rate that is at or
2505 below the eligibility threshold established in s. 627.351(c)5.,
2506 the risk is not eligible for coverage with the corporation.
2507 Notwithstanding any other provisions of law, if a policyholder
2508 at renewal is provided an offer of coverage from an admitted
2509 insurer through the program or through an alternative option
2510 under subsection (7), and the offer is no more than 15 percent
2511 above the policyholder's premium for comparable coverage through
2512 the corporation, the risk is not eligible for coverage with the
2513 corporation.

2514 (5) Independent insurance agents submitting new
2515 applications for coverage or who are the agent of record on a
2516 renewal policy submitted to the clearinghouse:

2517 (a) Notwithstanding s. 626.112, are not required to be
2518 appointed by an insurer participating in the clearinghouse for
2519 policies written solely through the clearinghouse.

2520 (b) May accept an appointment from an insurer participating
2521 in the clearinghouse.

2522 (c) Must enter into a standard or limited agency agreement
2523 with the insurer, at the insurer's option.

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2524 (d) Must maintain the exclusive use of expirations,
2525 records, or other written or electronic information directly
2526 related to such applications or renewals written through the
2527 corporation or through an insurer participating in the
2528 clearinghouse. Such expirations, records, or other written or
2529 electronic information may be used to review an application,
2530 issue a policy, or for any other purpose necessary for placing
2531 such business through the clearinghouse.

2532 (6) Exclusive agents submitting new applications for
2533 coverage or that are the agent of record on a renewal policy
2534 submitted to the program:

2535 (a) Notwithstanding s. 626.112, are not required to be
2536 appointed by an insurer participating in the clearinghouse for
2537 policies written solely through the clearinghouse.

2538 (b) May provide the new applicant or renewing policyholder
2539 the opportunity to accept an offer of coverage from an insurer
2540 that is participating in the clearinghouse and that had a
2541 limited servicing agreement approved by the exclusive agent's
2542 insurer.

2543 (c) Must enter into only a limited servicing agreement with
2544 the insurer making an offer of coverage.

2545 (d) Must maintain the exclusive use of expirations,
2546 records, or other written or electronic information directly
2547 related to such applications or renewals written through the
2548 corporation or through an insurer participating in the program,
2549 notwithstanding s. 627.351(6)(c)5.a.(I)(B) and (II)(B). Such
2550 expirations, records, or other written or electronic information
2551 may be used to review an application, issue a policy, or for any
2552 other purpose necessary for placing such business through the

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2553 clearinghouse.

2554 (7) The corporation may recognize private entities that the
2555 independent agent elects to use as an alternative to submitting
2556 a risk to the clearinghouse. An alternative option allowed under
2557 this subsection shall obtain offers of coverage from authorized
2558 insurers for new applicants seeking coverage from the
2559 corporation and for corporation policyholders on renewal. The
2560 alternative option may not be used as a replacement for the
2561 clearinghouse. Neither the clearinghouse nor a private entity
2562 operating under this subsection may prohibit insurers from
2563 electing to participate in more than one program or alternative,
2564 and an insurer participating in the private entity alternative
2565 must also participate in the clearinghouse.

2566 (8) Submission of an application for coverage by the
2567 corporation to the clearinghouse does not constitute the binding
2568 of coverage by the corporation, and failure of the clearinghouse
2569 to obtain an offer of coverage by an insurer is not considered
2570 acceptance of coverage of the risk by the corporation.

2571 Section 14. Subsection (1) of section 627.405, Florida
2572 Statutes, is amended to read:

2573 627.405 Insurable interest; property.-

2574 (1) A ~~No~~ contract for property ~~of insurance of property~~ or
2575 ~~of any interest in property or arising from property~~ is not
2576 ~~shall be enforceable as to the insurance except for the benefit~~
2577 ~~of persons having an insurable interest in the things insured as~~
2578 at the time of the loss. Policyholders under a contract of
2579 property insurance may assign benefits to be received under that
2580 contract consistent with, and subject to, the conditions in the
2581 policy.

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2582 Section 15. Subsection (1) of section 627.410, Florida
 2583 Statutes, is amended to read:

2584 627.410 Filing, approval of forms.—

2585 (1) A ~~No~~ basic insurance policy or annuity contract form,
 2586 or application form where written application is required and is
 2587 to be made a part of the policy or contract, ~~or~~ group
 2588 certificates issued under a master contract delivered in this
 2589 state, or printed rider or endorsement form or form of renewal
 2590 certificate, may not ~~shall~~ be delivered or issued for delivery
 2591 in this state, unless the form has been filed with the office by
 2592 or on ~~in~~ behalf of the insurer that ~~which~~ proposes to use such
 2593 form and has been approved by the office or filed pursuant to s.
 2594 627.4102. This provision does not apply to surety bonds or to
 2595 policies, riders, endorsements, or forms of unique character
 2596 that ~~which~~ are designed for and used with ~~relation to~~ insurance
 2597 on ~~upon~~ a particular subject, ~~(other than as to~~ health
 2598 insurance), or that ~~which~~ relate to the manner of distributing
 2599 ~~distribution of~~ benefits or to the reservation of rights and
 2600 benefits under life or health insurance policies and are used at
 2601 the request of the individual policyholder, contract holder, or
 2602 certificateholder. For ~~As to~~ group insurance policies
 2603 effectuated and delivered outside this state but covering
 2604 persons resident in this state, the group certificates to be
 2605 delivered or issued for delivery in this state shall be filed
 2606 with the office for information purposes only.

2607 Section 16. Section 627.4102, Florida Statutes, is created
 2608 to read:

2609 627.4102 Informational filing of forms; certification.—

2610 (1) Property and casualty forms, except workers'

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2611 compensation forms, are exempt from the approval process
2612 required under s. 627.410 if:

2613 (a) The form has been electronically submitted to the
2614 office in an informational filing made through I-File 30 days
2615 before the delivery or issuance for delivery of the form within
2616 this state; and

2617 (b) At the time the informational filing is made, a
2618 notarized certification is attached to the filing which
2619 certifies that each form within the filing is in compliance with
2620 all applicable state laws and rules. The certification must be
2621 on the insurer's letterhead and signed and dated by the
2622 insurer's president, chief executive officer, general counsel,
2623 or an employee of the insurer responsible for the filing on
2624 behalf of the insurer. The certification must contain the
2625 following statement, and no other language: "I, ...[name]..., as
2626 ...[title]... of ...[insurer name]..., do hereby certify that
2627 this form filing has been thoroughly and diligently reviewed by
2628 me and by all appropriate company personnel, as well as company
2629 consultants, if applicable, and certify that each form contained
2630 within the filing is in compliance with all applicable Florida
2631 laws and rules. Should a form be found that is not in compliance
2632 with Florida laws and rules, I acknowledge that the Office of
2633 Insurance Regulation shall disapprove the form."

2634 (2) If the filing contains a form that is not in compliance
2635 with state laws and rules, the form filing, at the discretion of
2636 the office, is subject to prior review and approval pursuant to
2637 s. 627.410, and the period for review and approval established
2638 under s. 627.410(2) begins to run on the date the office
2639 notifies the insurer of the discovery of the noncompliant form.

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2640 (3) A Notice of Change in Policy Terms form required under
2641 s. 627.43141(2) shall be filed as a part of the informational
2642 filing for a renewal policy that contains a change. All
2643 modifications, additions, or deletions of terms, coverages,
2644 duties, or conditions shall be enumerated within the body of the
2645 form. If a renewal policy that was certified requires such form,
2646 the insurer must provide a copy to the named insured's agent
2647 pursuant to s. 627.43141(6) (c) before or upon providing the form
2648 to the named insured.

2649 (4) This section does not preclude an insurer from electing
2650 to file any form for approval under s. 627.410 which would
2651 otherwise be exempt under this section.

2652 (5) The provisions of this section supersede and replace
2653 the existing order issued by the office exempting specified
2654 property and casualty forms from the requirements of s. 627.410.

2655 Section 17. Except as otherwise expressly provided in the
2656 act, this act shall take effect July 1, 2013.