

| Tab 1 | SB 2-A by Boyd; (Identical to H 00001A) Property Insurance | | | | | | |
|--------------|---|---|-------|------------|-----------------------|----------------|--|
| 532468 | A | S | UNFAV | FP, Berman | Delete L.2748 - 2863: | 12/12 06:42 PM | |
| 785452 | A | S | UNFAV | FP, Osgood | btw L.3016 - 3017: | 12/12 06:42 PM | |
| 242906 | A | S | UNFAV | FP, Osgood | btw L.3024 - 3025: | 12/12 06:42 PM | |

| Tab 2 | SB 4-A by Hutson; (Identical to H 00003A) Disaster Relief | | | | | | |
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| Tab 3 | SB 6-A by DiCeglie; (Identical to H 00005A) Toll Relief | | | | | | |
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

FISCAL POLICY
Senator Hutson, Chair
Senator Stewart, Vice Chair

MEETING DATE: Monday, December 12, 2022
TIME: 3:00—5:30 p.m.
PLACE: *Pat Thomas Committee Room, 412 Knott Building*

MEMBERS: Senator Hutson, Chair; Senator Stewart, Vice Chair; Senators Albritton, Berman, Boyd, Burton, Calatayud, Collins, DiCeglie, Garcia, Jones, Mayfield, Osgood, Rodriguez, Simon, Thompson, Torres, Trumbull, Wright, and Yarborough

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|--|--|-----------------------------|
| 1 | SB 2-A Boyd (Identical H 1-A) | Property Insurance; Creating the Florida Optional Reinsurance Assistance program (FORA), to be administered by the State Board of Administration; authorizing eligible insurers to purchase reinsurance coverage under FORA; providing that property insurers may be subject to an additional market conduct examination by the Office of Insurance Regulation after a hurricane under certain circumstances; specifying conditions that must be met for a property insurance policy to require mandatory binding arbitration; prohibiting policyholders from assigning post-loss insurance benefits under residential or commercial property insurance policies issued on or after a specified date, etc. BI 12/12/2022 Favorable FP 12/12/2022 Favorable | Favorable Yeas 15 Nays 5 |
| 2 | SB 4-A Hutson (Identical H 3-A) | Disaster Relief; Authorizing the Department of Environmental Protection to waive or reduce match requirements for certain local governments; authorizing the refund of ad valorem taxes for residential improvements rendered uninhabitable by certain hurricanes; providing for the extension and suspension of payments and discounts of certain taxes and assessments; requiring the Division of Emergency Management and local governments to enter into certain agreements to receive specified funds; providing for the organization and operation of the Florida Emergency Management Assistance Foundation within the division, etc. CA 12/12/2022 Favorable FP 12/12/2022 Favorable | Favorable Yeas 20 Nays 0 |

COMMITTEE MEETING EXPANDED AGENDA

Fiscal Policy

Monday, December 12, 2022, 3:00—5:30 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|--|--|-----------------------------|
| 3 | SB 6-A DiCeglie (Identical H 5-A) | Toll Relief; Requiring the Florida Turnpike Enterprise to establish a toll relief program for a specified timeframe; specifying the requirements for eligibility for account credits under the program; authorizing the department to reimburse each Florida toll facility or Florida toll facility entity for the actual account credits issued, based on specified reports; requiring each Florida toll facility or Florida toll facility entity to submit certain documentation for reimbursement, etc. | Favorable Yeas 20 Nays 0 |
| | | FP 12/12/2022 Favorable | |

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: SB 2-A

INTRODUCER: Senator Boyd

SUBJECT: Property Insurance

DATE: December 12, 2022

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------------------|----------------|-----------|------------------|
| 1. | <u>Thomas/Moody</u> | <u>Knudson</u> | <u>BI</u> | Favorable |
| 2. | <u>Thomas/Moody</u> | <u>Yeatman</u> | <u>FP</u> | Favorable |
| 3. | _____ | _____ | _____ | _____ |

I. Summary:

Senate Bill 2-A is a comprehensive bill intended to ensure policyholders in this state have access to quality, affordable private market property insurance. The bill also requires insurers to more promptly communicate, investigate and pay valid claims. Anticipated shortages in the reinsurance market are addressed through a new optional state reinsurance program. Excessive litigation is addressed by eliminating one-way attorney fees for property insurance and instead allowing both parties to obtain fees through the offer of judgment statute. The bill strengthens the regulatory authority of the Office of Insurance Regulation over property insurers. Specifically, the bill:

Florida Optional Reinsurance Assistance Program

- Establishes the Florida Optional Reinsurance Assistance (FORA) Program for the 2023 hurricane season, which:
 - Creates an optional hurricane reinsurance program that insurers can purchase at “reasonable” rates. Rates vary by tier level purchased and will range from 50% to 65% rate on-line.
 - Provides purchase tiers that begin at the Florida Hurricane Catastrophe Fund (FHCF) attachment point and cumulatively are limited to no more than \$5 billion below the FHCF attachment point.
 - Allows insurers that purchase FORA coverage or receive free Reinsurance to Assist Policyholders (RAP) coverage at each tier to have the option to purchase the next tier down.
 - Maintains the Reinsurance to Assist Policyholders (RAP) program, thus allowing those insurers and their policyholders that could not participate during 2022-2023, to receive and benefit from RAP reinsurance in 2023-2024.
 - Funds FORA coverage with \$1 billion in general revenue funds and the premiums insurers pay for FORA coverage.

- Returns remaining revenue to general revenue after the FORA program ends.

Claim Filing Deadline

- Reduces the deadline for policyholders to report a claim under the policy from 2 years to 1 year for a new or reopened claim, and from 3 years to 18 months for a supplemental claim.

Regulation of Insurance in Florida

- Authorizes the Office of Insurance Regulation (OIR) to subject any authorized insurer to a market conduct examination after a hurricane under certain conditions relating to property insurance claims.
- Ensures that insurers do not abuse the appraisal process under property insurance policies by:
 - Specifying the OIR has discretionary authority to suspend or revoke an insurer's certificate of authority or issue administrative fines and restitution upon if the insurer engages in a general business practice of, without just cause, compelling insureds to participate in appraisal in order for the insured to secure the full payment or settlement of a property insurance claims.
 - Adding additional elements to the mandated insurer's quarterly reports filed with the OIR related to claims.
 - Authorizing the OIR, based on finding that the insurer had exhibited a pattern or practice of one or more willful unfair insurance trade practice violations with regard to its use of appraisal, to withdraw OIR approval of the property insurer's forms and, in addition to any other authorized regulatory action, issue an order that prohibits the insurer from invoking appraisal for up to two years.
 - Adding an element to the Property Insurer Stability Unit's required semiannual report on the status of the homeowners' and condominium homeowners' insurance market to include the name of any insurer found to have exhibited a pattern or practice of one or more willful unfair insurance trade practice violations with regard to its use of appraisal. The bill also requires the OIR to publish this same information on its internet webpage.

Prompt Pay Laws for Property Insurance

- Amends the prompt pay laws to encourage the prompt payments of claims, as follows:
 - Reduces the time for insurers to pay or deny the claim from 90 to 60 days. Allows the Florida Office of Insurance Regulation (OIR) to extend the 60 day period up to 30 additional days if a state of emergency, cyberattack, or computer systems failure prevents the insurer from meeting the time frames of the prompt-pay law.
 - Reduces the time for insurers to review and acknowledge a claim communication from 14 days to 7 days.
 - Reduces the time for insurer to begin an investigation from 14 days to 7 days.
 - Reduces the time for insurer to conduct a physical inspection from 45 days to 30 days, and applies this requirement to hurricane claims.
 - Specifies insurers may use electronic methods to investigate the loss and allows policyholders to participate in the use of such methods.
 - Requires insurers to send any adjuster's report estimating the loss to the policyholder within 7 days after it is created.

- Requires that the insurer's claim records include various parts of the claim investigation and their dates.
- Provides that the requirements of the section are tolled: during the pendency of any mediation or alternative dispute resolution procedure provided in the insurance contract and upon failure of a policyholder or representative to provide material claim information within 10 days, if the request for such information was made within the first 45 days after notice of the claim.
- Amends the Homeowner Claim Bill of Rights to conform to the bill's changes to the prompt pay laws.
- Amends the Unfair Insurance Trade Practices Act to conform to changes made to the prompt pay laws by reducing the requirement to pay undisputed amounts of benefits from 90 days to 60 days and revising the factors that excuse failure to perform.

Awards of Attorney Fees in Litigation under Property Insurance Contracts

- Provides that the one-way attorney fee provisions of s. 627.428, s. 626.9373, and s. 627.70152 are not applicable in a suit arising under a residential or commercial property insurance policy.
- Reinstates application of the civil offer of judgment statute to civil actions arising under a residential or commercial property insurance policy.
 - Allows joint offers of settlement in property insurance litigation contingent on acceptance of all joint offerees.
- Removes provisions regarding attorney fees relating to the alternative procedure for resolution of disputed sinkhole insurance claims.

Assignments of Benefits

- Prohibits the assignment, in whole or in part, of any post-loss insurance benefit under any residential property insurance policy or under any commercial property insurance policy issued on or after January 1, 2023.

Bad Faith Failure to Settle Actions against Property Insurers

- Provides that bad faith litigation for failure to settle a property insurance claim may not be filed until after the insured has established through adverse adjudication by a court that the insurer breached the insurance contract and a final judgment or decree has been rendered against the insurer.

Citizens Property Insurance Corporation (Citizens)

- Increases the eligibility threshold for Citizens renewal personal lines policyholders. Under the bill, such policyholders are ineligible for Citizens coverage at renewal upon receiving an offer of comparable coverage from an authorized insurer for a premium that is not more than 20 percent greater than the Citizens renewal premium.
- Increases the eligibility threshold for Citizens new policies for commercial residential coverage from 15 percent to 20 percent, which is consistent with the current threshold for new policies of personal residential coverage.

- Amends provisions on take-out offers and the Citizens clearinghouse to conform to the increased eligibility thresholds contained in the bill.
- Requires that Citizens' rate be non-competitive with the approved rates charged in the admitted market, in addition to being actuarially sound.
- Increases the potential rates charged for coverage on risks that are not primary residences.
- Defines the term "primary residences."
- Repeals language allowing policyholders to return to Citizens as a renewal if the take-out carrier increases their rates above the Citizens' glidepath.
- Combines Citizens three accounts into a single account upon Citizens eliminating all outstanding financing obligations. A single account structure will allow Citizens to access its entire surplus to pay claims. Currently, surplus in a particular account may only be used to pay claims in that account. The bill also revises the Citizens policyholder surcharge imposed in the event of a deficit from 15 percent per account (maximum 45 percent) to 15 percent for the single account.
- Provides that Citizens personal lines residential policyholders must secure and maintain flood insurance that meets certain requirements as a condition of eligibility for Citizens coverage.
- Provides a timetable for which flood insurance coverage must be implemented for personal lines residential Citizens policyholders.
 - For risks located in areas designated by the Federal Emergency Management Agency as special flood hazard areas, flood insurance must be secured for new Citizens policies with an effective date on or after April 1, 2023, and at renewal for Citizens policies that renew on or after July 1, 2023.
 - For all other risks, the requirement to obtain flood insurance at policy issuance or renewal is effective:
 - March 1, 2024, for policies insuring property to a limit of \$600,000 or more.
 - March 1, 2025, for policies insuring property to a limit of \$500,000 or more.
 - March 1, 2026, for policies insuring property to a limit of \$400,000 or more.
 - March 1, 2027, for all other policies.

Flood Notice

- Amends the mandatory flood insurance notice by requiring it to be part of the declarations page and makes revisions to the content of notice to encourage purchase of flood insurance.

Arbitration

- Provides conditions whereby a property insurer may include mandatory binding arbitration in its policies. The insurer may not require a policyholder to participate in mandatory binding arbitration unless specified conditions are met, including that the insurer also offer a policy that does not have a mandatory binding arbitration clause. Insurers must also provide an appropriate premium discount in exchange for the rights ceded by the policyholder.

Continuation of Coverage

- Authorizes the OIR to extend the 30-day coverage period for policies of insolvent insurers by an additional 15 days if the OIR reasonably believes that market conditions are such that the policies cannot be placed with an authorized insurer within the 30-day period.

Appropriations

- For 2022-2023 fiscal year, appropriates \$1,757,982 in recurring funds from the Insurance Regulatory Trust Fund to the OIR with an associated salary rate of \$844,464.
 - Allocates the funds as follows: \$1,356,615 for Salaries and Benefits, \$400,000 for Other Personal Services Category, and \$1,367 to DMS. Funds also will be used for recruitment and retention of personnel within the OIR.
- Authorizes cumulative transfers from general revenue not to exceed \$1 billion from the General Revenue Fund to the Florida Optional Reinsurance Assistance (FORA) Program for the 2022-23 contract term beginning June 1, 2023.
 - Authorizes up to \$6 million in transfers from general revenue to the State Board of Administration to administer the FORA program.

See Section V. Fiscal Impact Statement.

The bill, except as otherwise provided, is effective upon becoming law.

II. Present Situation:

Market Conditions

Domestic property insurers in Florida have incurred large financial losses from 2017 to the present. According to the Florida Office of Insurance Regulation (OIR), from 2017 to 2021, Florida domestic property insurers had cumulative net underwriting losses in excess of negative three billion dollars.¹ In 2020 and 2021, the combined net income of these insurers was cumulatively over a negative 1 billion dollars. The last time these carriers has a positive net income was 2016. In 2020, property insurance claims exceeded original estimates by approximately \$676 million.²

Adverse claim development has also become an acute problem for domestic property insurers. Insurers set a claim reserve for each claim in order to set aside the money the insurer believes will be necessary to pay the claim. As time passes, carriers will then compare their initial reserves to the actual cost of the claim. In 2021, when domestic property insurers looked back at claim reserves from one year prior, the claim costs were approximately \$481 million more than estimated, and \$337 million at the two-year mark.³ These losses have led to an increasing trend of domestic property insurers filing for rate increases. Homeowners who have purchased coverage from a private insurer have seen annual rate increases of approximately 33 percent and are expected to see that number rise to 40 percent next year.⁴

¹ The OIR, *Property Insurance Stability Report*, p. 12, Jul. 1, 2022, https://floir.com/docs-sf/default-source/property-and-casualty/stability-unit-reports/july-2022-isu-report.pdf?sfvrsn=34f77ed6_2 (last visited Dec. 7, 2022) (hereinafter cited as “Insurance Stability Report”).

² *Id.*

³ *Id.*

⁴ WUSF, *Property Insurance Market is Facing Multiple Challenges*, Dec. 5, 2022 <https://wusfnews.wusf.usf.edu/economy-business/2022-12-05/florida-property-insurance-market-multiple-challenges-special-session> (last visited Dec. 7, 2022).

In a presentation to the Florida Senate Committee on Banking and Insurance on January 12, 2021, the State Insurance Commissioner attributed the net underwriting losses and resulting rate increases displayed above to several related trends and behaviors present in Florida's domestic property insurance market:

- Claims with litigation;
- Claims solicitation; and
- Adverse loss reserve development.⁵

In 2020, the OIR conducted a data call of Florida's domestic property insurers.⁶ The results of the data call showed the severity of non-weather water claims with litigation is nearly double that of the claims that are closed without litigation.⁷ According to the OIR, the increased severity of claims involving litigation is driving adverse loss reserve development, leading to high rate filings.⁸ Loss reserve development is the difference between the original loss as initially reserved by the insurer and its subsequent evaluation later or at the time of its final disposal.⁹

According to the OIR, these numbers reflect the high degree of uncertainty that exists in the property insurance market, which in turn impacts reinsurance capacity and reinsurance rates for insurers.¹⁰ To spread Florida's significant catastrophic risk outside of Florida's borders, insurers turn to the global reinsurance market.¹¹ Fitch Ratings expects reinsurance prices will rise by more than 10% in 2023 with the highest increases in areas such as Florida which were affected by natural catastrophe events in 2022.¹² The OIR reports that, based on its Annual Reinsurance Data Call (ARDC) and Catastrophe Stress Test for the 2020-2021 year, the cost of reinsurance that year increased by 54 percent from its 2019 figures.¹³ Based on the OIR's findings from the 2021-2022 year, the cost of that reinsurance increased by 28 percent from its 2020 figures.¹⁴

Recent Insolvencies of Property Insurers

Federal law specifies that insurance companies cannot file for bankruptcy and are instead subject to state laws regarding receivership.¹⁵ Typically, insurers that are insolvent or about to become insolvent are put into liquidation to liquidate the business of the insurer and use the proceeds to

⁵ The Florida Senate, *Meeting of the Committee on Banking and Insurance* (Jan. 12, 2021) (statement of David Altmaier, Commissioner, Florida Office of Insurance Regulation).

⁶ The OIR, *Assignment of Benefits*, <https://www.floir.com/Sections/PandC/AssignmentofBenefits.aspx> (last visited Dec. 9, 2022).

⁷ The Florida Senate, *Meeting of the Committee on Banking and Insurance* (Jan. 12, 2021) (statement of David Altmaier, Commissioner, Florida Office of Insurance Regulation).

⁸ The Florida Senate, *Meeting of the Committee on Banking and Insurance* (Jan. 12, 2021) (statement of David Altmaier, Commissioner, Florida Office of Insurance Regulation).

⁹ International Risk Management Institute, *Glossary*, <https://www.irmi.com/term/insurance-definitions/loss-development> (last visited Dec. 9, 2022).

¹⁰ *Id.*

¹¹ Insurance Stability Report, p. 16.

¹² Saunders, J. Florida Realtors, *Fitch Ratings: Ian Pushes Reinsurance Rates Higher*, Nov. 28, 2022, [Fitch Ratings: Ian Pushes Reinsurance Rates Higher | Florida Realtors](#) (last visited Dec. 8, 2022).

¹³ Insurance Stability Report, p. 15.

¹⁴ *Id.*

¹⁵ The U.S. Bankruptcy Code expressly provides that "a domestic insurance company" may not be the subject of a federal bankruptcy proceeding. 11 U.S.C. s. 109(b)(2). The exclusion of insurers from the federal bankruptcy court process is consistent with federal policy generally allowing states to regulate the business of insurance. See 15 U.S.C. s. 1012 (McCarran-Ferguson Act).

pay off the company's debts and outstanding insurance claims;¹⁶ whereas, the goal of rehabilitation¹⁷ is to return the company to solvency. The Division of Rehabilitation and Liquidation within the Department of Financial Services (DFS) is the court appointed receiver that administers insurance companies that are placed into receivership in Florida. Rehabilitation is a mechanism that can be used to remedy an insurer's problems, to resolve its liabilities in order to avoid liquidation, or to prepare the insurer for liquidation.¹⁸ An unfortunately high number of property insurers have recently become insolvent.

2019 Liquidation. On October 2, 2019, Florida Specialty Insurance Company (FSIC) was ordered into receivership for purposes of liquidation by the Second Judicial Circuit Court in Leon County, Florida.¹⁹ The FSIC was a property and casualty insurance company located in Sarasota, Florida. The company, licensed in 1997, wrote personal property insurance policies for homeowners, condominiums, renters, and manufactured homes.²⁰

2021 Liquidations. On April 14, 2021, American Capital Assurance Corporation (AmCap) was ordered into receivership for purposes of liquidation by the Second Judicial Circuit Court in Leon County, Florida.²¹ AmCap was a property and casualty insurance company located in St. Petersburg, Florida. The company was licensed in Florida in 2011, and authorized to write homeowners multiple peril, commercial multiple peril, inland marine, allied lines, fire, and other liability coverage in Florida, Georgia, Louisiana, North Carolina, South Carolina and Texas. The company had approximately 2,300 in-force policies at the time of receivership.²²

On July 28, 2021, Gulfstream Property and Casualty Insurance Company, was ordered into liquidated by the Second Judicial Circuit Court in Leon County, Florida.²³ Gulfstream Property and Casualty Insurance Company and its wholly-owned subsidiary, Gulfstream Select Insurance Company, were merged into one entity. Gulfstream Property and Casualty Insurance Company is the surviving entity after the merger and will hereinafter be referred to as (Gulfstream). The company was licensed in Florida in 2004, and authorized to write homeowners multiple peril, mobile home multiple peril, inland marine, allied lines, fire, mobile home physical damage and other liability coverage in Alabama, Florida, Louisiana, Mississippi, South Carolina and Texas. The company had approximately 45,000 in-force policies at the time of receivership.²⁴

¹⁶ Section 631.061, F.S.

¹⁷ Section 631.051, F.S.

¹⁸ Part I, ch., 631, F.S.

¹⁹ The Florida Insurance Guaranty Association (FIGA), *Florida Specialty Insurance Company*, Nov. 22, 2019, [Florida Specialty Insurance Company – Florida Insurance Guaranty Association \(figafacts.com\)](#) (last visited Dec. 7, 2022).

²⁰ The DFS, *Florida Specialty Insurance Company: Notice of Receivership*, [FLORIDA SPECIALTY INSURANCE COMPANY \(myfloridacfo.com\)](#) (last visited Dec. 7, 2022).

²¹ The FIGA, *Florida Specialty Insurance Company*, Nov. 22, 2019, [American Capital Assurance Corporation – Florida Insurance Guaranty Association \(figafacts.com\)](#) (last visited Dec. 7, 2022).

²² The DFS, *Rehabilitation & Liquidation, American Capital Assurance Corporation*, [AMERICAN CAPITAL ASSURANCE CORPORATION \(myfloridacfo.com\)](#) (last visited Dec. 7, 2022).

²³ The FIGA, *Gulfstream Property & Casualty Insurance*, Jul. 28, 2021, [Gulfstream Property & Casualty Insurance – Florida Insurance Guaranty Association \(figafacts.com\)](#) (last visited Dec. 7, 2022).

²⁴ The DFS, *Gulfstream Property and Casualty Insurance Company*, [GULFSTREAM PROPERTY AND CASUALTY INSURANCE COMPANY \(myfloridacfo.com\)](#) (last visited Dec. 7, 2022).

2022 Liquidations. On February 25, 2022, St. Johns Insurance Company was ordered into receivership for purposes of liquidation by the Second Judicial Circuit Court in Leon County, Florida.²⁵ The company was licensed in Florida in 2004, and authorized to write homeowners multi-peril, commercial multi-peril, fire, allied lines, and inland marine coverage in Florida and South Carolina.²⁶

On March 14, 2022, Avatar Property and Casualty was ordered into receivership for purposes of liquidation by the Second Judicial Circuit Court in Leon County, Florida.²⁷ The company was a property and casualty insurance company.²⁸

On June 15, 2022, Southern Fidelity Insurance Company (SFIC) was ordered into liquidation by the Second Judicial Circuit Court in Leon County, Florida.²⁹ The company was located in Tallahassee, Florida and offered property and casualty insurance. SFIC was licensed in Florida in 2005, and authorized to write homeowners multiple peril, commercial multiple peril, inland marine, allied lines, fire, and other liability in Florida, Louisiana, Mississippi, and South Carolina. SFIC had approximately 150,000 in-force policies at the time of receivership.³⁰

On August 8, 2022, Weston Property & Casualty Insurance Company was ordered into liquidation by the Second Judicial Circuit Court in Leon County, Florida.³¹ The court authorized the DFS to utilize the services of a Special Deputy Receiver and limited information is available about the proceedings on the DFS's website.³²

On September 27, 2022, FedNat Insurance Company (FedNat) was ordered into liquidation by the Second Judicial Circuit Court in Leon County, Florida.³³ The company was located in Sunrise, Florida, and offered property and casualty insurance. FedNet was licensed in Florida in 1984, and authorized to write homeowners multiple peril, fire, allied lines, other liability, private passenger auto liability, and boiler and private passenger auto physical damage in Alabama, Florida, Georgia, Louisiana, Mississippi, South Carolina and Texas. FedNet had approximately 13,000 in-force policies at the time of receivership.³⁴

²⁵ The FIGA, *St. Johns Insurance Company*, Feb. 25, 2022, [St. Johns Insurance Company – Florida Insurance Guaranty Association \(figafacts.com\)](#) (last visited Dec. 7, 2022).

²⁶ The DFS, *St. Johns Insurance Company, Inc., Background*, [ST. JOHNS INSURANCE COMPANY, INC. \(myfloridacfo.com\)](#) (last visited Dec. 7, 2022).

²⁷ The FIGA, *Avatar Property & Casualty Insurance Company*, Mar. 14, 2022, [Avatar Property & Casualty Insurance Company – Florida Insurance Guaranty Association \(figafacts.com\)](#) (last visited Dec. 7, 2022).

²⁸ The DFS, *Avatar Property and Casualty Insurance Company Financial Statement June 30, 2022*, [558_QST_20220630_FinancialStatement.pdf \(myfloridacfo.com\)](#) (last visited Dec. 7, 2022).

²⁹ The FIGA, *Southern Fidelity Insurance Company*, Jun. 16, 2022, [Southern Fidelity Insurance Company – Florida Insurance Guaranty Association \(figafacts.com\)](#) (last visited Dec. 7, 2022).

³⁰ The DFS, *Southern Fidelity Insurance Company, Background Information*, [SOUTHERN FIDELITY INSURANCE COMPANY \(myfloridacfo.com\)](#) (last visited Dec. 7, 2022).

³¹ The FIGA, *Weston Property & Casualty Insurance Company*, Aug. 8, 2022, [Weston Property & Casualty Insurance Company – Florida Insurance Guaranty Association \(figafacts.com\)](#) (last visited Dec. 7, 2022).

³² The DFS, *Weston Property & Casualty Insurance Company*, [WESTON PROPERTY & CASUALTY INSURANCE COMPANY \(myfloridacfo.com\)](#) (last visited Dec. 7, 2022).

³³ The FIGA, *FedNat Insurance Company*, Sept. 27, 2022, [FedNat Insurance Company – Florida Insurance Guaranty Association \(figafacts.com\)](#) (last visited Dec. 7, 2022).

³⁴ The DFS, *FedNat Insurance Company, Background Information*, [FEDNAT INSURANCE COMPANY \(myfloridacfo.com\)](#) (last visited Dec. 7, 2022).

Hurricanes Ian and Nicole

On top of the already strained property insurance market, Hurricanes Ian and Nicole made landfall this year in Florida. Hurricane Ian made landfall on September 28, 2022 near Cayo Costa in southwest Florida as a Category 4 storm and weakened to a tropical storm after crossing over the Florida peninsula.³⁵ Ian had maximum sustained winds of 150 mph when it came ashore, tying the record for the fifth-strongest hurricane on record to strike the United States.³⁶ The Florida District Medical Examiners has reported, and the Medical Examiners Commission have confirmed, that there are 141 fatalities in Florida attributed to Hurricane Ian.³⁷ Preliminary estimated total damages from Hurricane Ian may be as high as \$40 billion to \$64 billion, which includes uninsured flood loss of \$10 billion to \$16 billion.³⁸

Shortly after Hurricane Ian hit Florida, Hurricane Nicole made landfall on November 10, 2022 as a Category 1 storm with maximum sustained winds of up to 75 mph but soon after weakened to a tropical storm.³⁹ The Florida District Medical Examiners have reported, and the Medical Examiners Commission has confirmed, that there are 5 fatalities in Florida attributed to Tropical Storm Nicole.⁴⁰ Early estimates of private market U.S. insurer losses are less than \$2 billion with wind and storm surge losses of \$1.2 billion to \$1.8 billion and losses primarily in Florida and Georgia for the National Flood Insurance Program at less than \$300 million.⁴¹

Florida Hurricane Catastrophe Fund

The Florida Hurricane Catastrophe Fund (FHCF) is a tax-exempt fund created by the Legislature in 1993 as a form of reinsurance for residential property catastrophic hurricane losses.⁴² The purpose of the FHCF is to protect and advance the state's interest in maintaining insurance capacity in Florida by providing reimbursements to insurers for a portion of their catastrophic losses.⁴³ The FHCF provides insurers a source of reinsurance that is stable and generally less expensive than private reinsurance.

The State Board of Administration (board) administers the FHCF and reimburses participating insurers for a selected percentage of hurricane losses to residential property when those losses

³⁵ The National Environmental Satellite Data and Information Service, *Hurricane Ian's Path of Destruction*, Oct. 4, 2022, [Hurricane Ian's Path of Destruction | NESDIS \(noaa.gov\)](https://www.nesdis.noaa.gov/hurricane-ian-path-of-destruction) (last visited Dec. 7, 2022).

³⁶ *Id.*

³⁷ The Florida Department of Law Enforcement, *Update: Florida Medical Examiners Commission Hurricane Ian Deaths*, Dec. 1, 2022, [Update: Florida Medical Examiners Commission Hurricane Ian deaths \(state.fl.us\)](https://www.fl.gov/news/2022/12/01/update-florida-medical-examiners-commission-hurricane-ian-deaths) (last visited Dec. 7, 2022).

³⁸ The Association of State Floodplain Managers, *Estimated Damage for Hurricane Ian Between \$41 Billion and \$70 Billion*, Oct. 11, 2022, [Estimated Damages for Hurricane Ian Between \\$41 Billion and \\$70 Billion \(floods.org\)](https://www.asfpm.org/estimated-damage-for-hurricane-ian-between-41-billion-and-70-billion) (last visited Dec. 7, 2022) (citing data from CoreLogic, Inc.)

³⁹ DW, *Hurricane Nicole Makes Landfall in Florida*, Nov. 10, 2022, [Hurricane Nicole makes landfall in Florida – DW – 11/10/2022](https://www.dw.com/hurricane-nicole-makes-landfall-in-florida) (last visited Dec. 7, 2022).

⁴⁰ The Florida Department of Law Enforcement, *Update: Florida Medical Examiners Commission Tropical Storm Nicole Deaths*, Nov. 12, 2022, [Update: Florida Medical Examiners Commission Tropical Storm Nicole deaths \(state.fl.us\)](https://www.fl.gov/news/2022/11/12/update-florida-medical-examiners-commission-tropical-storm-nicole-deaths) (last visited Dec. 7, 2022).

⁴¹ Walker, A., Insurance Edge, *RMS Offers Hurricane Nicole Damage Estimates*, Nov. 17, 2022, [RMS Offers Hurricane Nicole Damage Estimates - \(insurance-edge.net\)](https://www.insurance-edge.net/rms-offers-hurricane-nicole-damage-estimates) (last visited Dec. 7, 2022).

⁴² See s. 215.555, F.S.

⁴³ See *id.*

exceed the insurer's retention (deductible).⁴⁴ The FHCF industry retention for the 2022-2023 contract year is \$8.5 billion. The FHCF reimburses participating insurers for losses under covered policies, subject to limitations.⁴⁵ A covered policy is defined as "any insurance policy covering residential property" in Florida, including, but not limited to the following types of policies:

- Homeowner;
- Mobile home owner;
- Farm owner;
- Condominium association;
- Condominium unit owner;
- Tenant;
- Apartment building policy; and
- Any other policy covering a residential structure or its contents.⁴⁶

Covered policies may be issued by any authorized insurer,⁴⁷ including a commercial self-insurance fund holding a certificate of authority issued by the OIR, Citizens Property Insurance Corporation (Citizens), and any joint underwriting association or similar legal entity.⁴⁸

FHCF Mandatory Coverage

All insurers admitted to transact business in this state writing residential property insurance that includes wind coverage must buy reimbursement coverage (reinsurance) on their residential property exposure through the FHCF.⁴⁹ The FHCF is authorized by statute to sell up to \$17 billion of mandatory layer coverage each contract year.⁵⁰ Each insurer that purchases coverage may receive up to its proportional share of the total mandatory layer of coverage based upon the insurer's share of the actual premium paid for the contract year, multiplied by the claims paying capacity of the fund. Each insurer may select a reimbursement contract wherein the FHCF promises to reimburse the insurer for 45 percent, 75 percent, or 90 percent of covered losses, plus 10 percent⁵¹ of the reimbursed losses for loss adjustment expenses.⁵²

FHCF Premiums

The FHCF must charge insurers the actuarially indicated premium⁵³ for the coverage provided, based on hurricane loss projection models found acceptable by the Florida Commission on

⁴⁴ *Id.* Retention is defined as the amount of losses below which an insurer is not entitled to reimbursement from the FHCF. It is calculated for each insurer based upon that insurer's proportionate share of overall premiums charged by the FHCF. *See s.* 215.555(2)(e), F.S.

⁴⁵ Section 215.555(2)(d), F.S.

⁴⁶ Section 215.555(2)(c), F.S.

⁴⁷ Authorized insurers are those insurers that have obtained a certificate of authority from the Office of Insurance Regulation to transact insurance business in Florida. Section 624.09(1), F.S.

⁴⁸ Section 215.555(2)(c), F.S.

⁴⁹ Section 215.555(4)(a), F.S.

⁵⁰ Section 215.555(4)(c)1., F.S.

⁵¹ Section 215.555(4)(b), F.S.

⁵² Loss adjustment expenses are costs incurred by insurers when investigating, adjusting, and processing a claim.

⁵³ Section 215.555(2)(a), F.S.

Hurricane Loss Projection Methodology.⁵⁴ The actuarially indicated premium is an amount that is adequate to pay current and future obligations and expenses of the fund. In practice, each insurer pays the FHCF annual reimbursement premiums that are proportionate to each insurer's share of the FHCF's risk exposure. The cost of FHCF coverage is generally lower than the cost of private reinsurance because the fund is a tax-exempt non-profit corporation and does not charge a risk load as it relates to overhead and operating expenses incurred by other private insurers.⁵⁵

Reinsurance to Assist Policyholders (RAP) Program

The Legislature created s. 215.5551, F.S., in Special Session 2022D, establishing the Reinsurance to Assist Policyholders (RAP) program within the State Board of Administration (board).⁵⁶ The RAP program authorizes the transfer of up to \$2 billion from the General Revenue Fund to the program for the 2022-2023 contract term beginning June 1, 2022.⁵⁷ The RAP program statute expires July 1, 2029, and all unencumbered RAP Program funds must be transferred back to the General Revenue Fund.⁵⁸

The RAP program authorizes a \$2 billion dollar reimbursement layer of reinsurance for hurricane losses directly below the mandatory layer of the Florida Hurricane Catastrophe Fund (FHCF).⁵⁹ The FHCF mandatory retention is \$8.5 billion for the 2022-2023 contract year. All eligible insurers must participate in the program. The RAP program coverage reimburses 90 percent of each insurer's covered losses and 10 percent of their loss adjustment expenses up to each individual insurer's limit of coverage for the two hurricanes causing the largest losses for that insurer during the contract year.⁶⁰

All eligible insurers will participate in the RAP program for one year. Insurers that did not have private reinsurance within the RAP layer of coverage for the 2022-2023 contract year were required to participate during the 2022-2023 contract year. Insurers that had private reinsurance that duplicates RAP coverage for the 2022-2023 contract year were required to notify the board in writing of such duplicative coverage no later than June 30, 2022. Participation in the RAP program for such insurers is deferred until the 2023-2024 contract year.⁶¹

Insurer that participated in the RAP program for 2022-2023 were required to reduce their rates by filing a rate filing or amending a pending rate filing with the OIR by June 30, 2022, to reflect the savings from the RAP program. An insurer that deferred using the RAP program until the 2023 year must reduce rates in a rate filing submitted to the OIR by May 1, 2023. The OIR is directed to expedite the review of such filings.⁶²

⁵⁴ See State Board of Administration of Florida, *Florida Commission on Hurricane Loss Methodology*, fchlpm.sbafla.com/ (last visited Dec. 4, 2022).

⁵⁵ State Board of Administration of Florida, *Florida Hurricane Catastrophe Fund, 2021 Annual Report*, <https://fhcf.sbafla.com/media/2s0lhu2b/2021-annual-report-final-33022.pdf> (last visited Dec. 9, 2022).

⁵⁶ Section 1, ch. 2022-268, Laws of Fla.

⁵⁷ Section 215.5551(13), F.S.

⁵⁸ *Id.*

⁵⁹ Section 215.5551(3)(b), F.S.

⁶⁰ Section 215.5551(4), F.S.

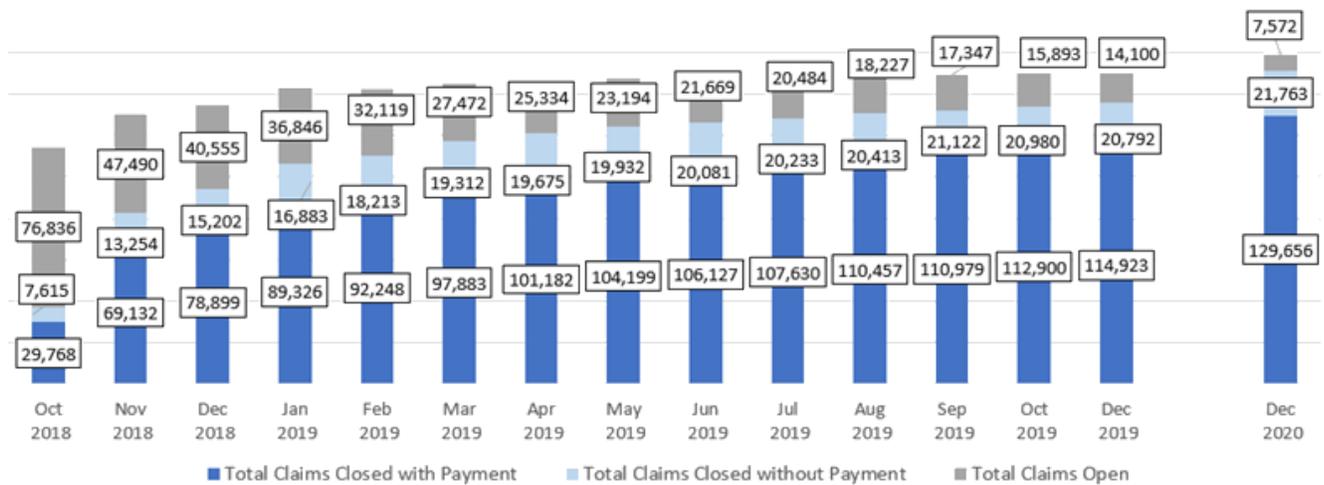
⁶¹ Section 215.5551(6), F.S.

⁶² Section 2, ch. 2022-268, Laws of Fla.

Claim Filing Deadline

Section 627.70132, F.S., currently requires insureds to notify an insurer of a claim or reopened claim,⁶³ within 2 years after the date of loss.⁶⁴ Notice of a supplemental claim⁶⁵ must be given to the insurer within 3 years of the date of loss or such claim is barred. Section 627.706(5), F.S., currently requires insureds to notify an insurer of a claim, supplemental claim, or reopened sinkhole claim within 2 years after the insured knew or reasonably should have known about the loss.

The chart below summarizes the OIR data for insurance claims by filing deadline as a result of Hurricane Michael.⁶⁶



According to the chart, most claims were filed within 1 year from the time Hurricane Michael made landfall in Florida in October 2018. Policyholders filed 112,900 of the 129,656 claims by October 2019.

From October 1, 2022 to November 30, 2022, over 600,000 claims have been reported with respect to Hurricane Ian. The graph below illustrates the claims breakdown for the storm.⁶⁷

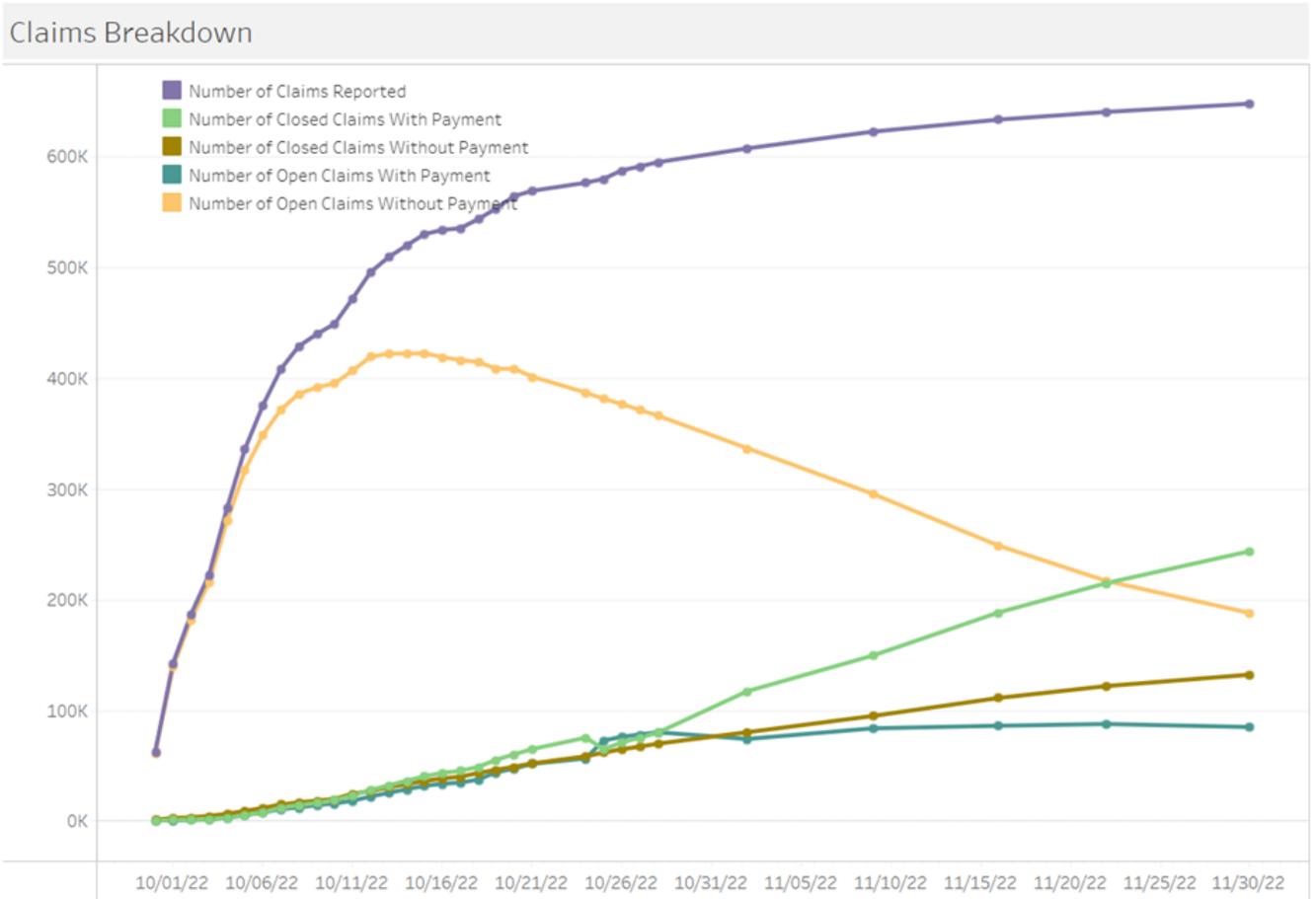
⁶³ Section 627.70132(1)(a), F.S., defines “reopened claim” as a claim that an insurer has previously closed, but that has been reopened upon an insured’s request for additional costs for loss or damage previously disclosed to the insurer.

⁶⁴ Section 627.702(3), F.S., provides that the date of loss for claims resulting from specified and other weather-related events, such as hurricanes and tornadoes, is the date that the hurricane made landfall or the other weather-related event is verified by the National Oceanic and Atmospheric Administration.

⁶⁵ Section 627.70132(1)(b), F.S., defines “supplemental claim” as a claim for additional loss or damage from the same peril which the insured has previously adjusted or for which costs have been incurred while completing repairs or replacement pursuant to an open claim for which timely notice was previously provided to the insurer.

⁶⁶ The OIR, *Hurricane Michael Claims Data*, [Hurricane Michael Claims Data \(floir.com\)](https://www.floir.com/hurricane-michael-claims-data) (last visited Dec. 6, 2022).

⁶⁷ Marante, S., electronic mail to Jacqueline M. Moody, *Re: Claims by filing deadline*, Dec. 7, 2022 (on file with the Senate Committee on Banking & Insurance) (attaching *Ian claims trend by filing deadline*).



Prompt Pay Law for Property Insurance

Florida’s property insurance prompt payment statute provides for an insurer’s⁶⁸ duty to acknowledge, investigate, and settle payment of a claim, if appropriate, within certain timeframes. These laws are meant to require insurance companies to make quick payments of any claims filed and deter unnecessary delays.

The insurer must acknowledge a filed claim within 14 days of its submission,⁶⁹ and begin an investigation, as is reasonably necessary, within 14 days after receiving a proof-of-loss statement.⁷⁰ Within 90 days of receiving notice of the initial, reopened, or supplemental claim, the insurer must either pay the claim in full, pay a portion of the claim, or deny the claim.^{71,72} These provisions must be complied within the stated timeframes unless the failure is caused by

⁶⁸ Section 627.70131(5), F.S., defines “insurer” as any residential property insurer.

⁶⁹ Section 627.70131(1)(a), F.S.

⁷⁰ Section 627.70131(3)(a), F.S.

⁷¹ Section 627.70131(7)(b), F.S., defines “claim”, for purposes of this subsection, as: 1. A claim under an insurance policy providing residential coverage as defined in s. 627.4025(1), F.S.; 2. A claim for structural or contents coverage under a commercial property insurance policy if the insured structure is 10,000 square feet or less; or 3. A claim for contents coverage under a commercial tenant policy if the insured premises is 10,000 square feet or less.

⁷² Section 627.70131(7)(a), F.S.

factors beyond the control of the insurer which reasonably prevent the insurer from complying with them.⁷³ Section 627.70131, F.S. does not define the phrase “factors beyond the control of the insurer.”

Except for claims subject to a hurricane deductible, any physical inspection must be conducted within 45 days after the insurer receives the proof-of-loss statement.⁷⁴ Section 627.70131, F. S., is silent on whether an insurer may use electronic methods to investigate claims. Within 7 days of assigning an adjuster, the insurer must notify the insured that a request may be made for an estimate of the amount of the loss. If a request is received, the insurer must send such estimate to the insured within the later of 7 days after the insurer received the request or 7 days after the detailed estimate is completed.⁷⁵

A licensed adjuster assigned to investigate a claim must provide a policyholder with written notification of his or her name and state adjuster license number, and include it on any subsequent communication with the policyholder.⁷⁶ An insurer must keep a record or log of each adjuster who communicates with the policyholder and provide a list of such adjusters to the insured, the OIR or the DFS upon request.

Section 627.70131, F.S., does not contain any provisions that toll the requirements under the section.⁷⁷

Homeowner Claim Bill of Rights

An insurer must provide a policyholder with a Homeowner Claim Bill of Rights (“Bill of Rights”) within 14 days after receiving the first communication on a claim which contains information about a homeowner’s rights specific to the claims process. The provisions relating to the acknowledgement and payment of a claim set out above are substantially included in the Bill of Rights. It also provides that, when requested in writing by the insured, the insurer must confirm the claim is either covered in full, partially covered, denied, or being investigated within 30 days of the insured providing a proof-of-loss statement. The Bill of Rights also advises homeowners to take certain steps with respect to a claim, such as contacting his or her insurance company before entering into any contract for repairs.⁷⁸

Unfair Insurance Claim Settlement Practices

Florida law prohibits a person from engaging in an unfair or deceptive act or practice involving the business of insurance.⁷⁹ The definition of unfair or deceptive acts or practices includes, in part, the following unfair claim settlement practices:

⁷³ Section 627.70131(1)(a) and (3)(a), F.S.

⁷⁴ Section 627.70131(3)(b), F.S.

⁷⁵ Section 627.70131(3)(d), F.S.

⁷⁶ Section 627.70131(3)(b) and (c), F.S.

⁷⁷ “Tolling” means to suspend or interrupt. Muniz, M.H., *The Florida Bar, Tolling or Suspending the Florida Statutes of Limitations Pursuant to Applicable Law*, April 2018, [Tolling or Suspending the Florida Statutes of Limitations Pursuant to Applicable Law – The Florida Bar](#) (last visit Dec. 6, 2022).

⁷⁸ Section 627.7142, F.S.

⁷⁹ Section 626.9521(1), F.S.

- Attempting to settle claims on the basis of a document that was altered without knowledge or consent of the insured;
- A material misrepresentation made to an insured for the purpose and with the intent of effecting settlement on less favorable terms than provided under the contract or policy;
- Committing or performing with such frequency as to indicate a general business practice certain acts, such as failing to adopt and implement standards for the proper investigation of claims;
- Failing to pay undisputed amounts of partial or full benefits owed under first-party property insurance policies within 90 days after an insurer received notice of a residential property insurance claim, determines the amounts of partial or full benefits, and agrees to coverage, unless payment of the undisputed benefits is prevented by “an act of God, prevented by the impossibility of performance, or due to actions by the insured or claimant that constitute fraud, lack of cooperation, or intentional misrepresentation regarding the claim for which benefits are owed.”⁸⁰

An insurer that violates these provisions is subject to a fine in an amount not greater than \$5,000 for each nonwillful violation, not to exceed an aggregate amount of \$20,000, and not greater than \$40,000 for each willful violation arising from the same action, not to exceed an aggregate amount of \$200,000.⁸¹

Awards of Attorney Fees in Litigation under Property Insurance Contracts

Under Florida law, first- and third-party litigants under a property insurance contract are sometimes subject to different sets of statutory and case law and procedural requirements. One of the primary challenges for Florida’s property market is an increase in the frequency and severity of litigated claims. One of the data points used by the OIR to track insurer litigation practices in the market is the National Association of Insurance Commissioners (NAIC) Market Conduct Annual Statement (MCAS).⁸² The MCAS is a regulatory tool developed in 2002 by state insurance regulators to collect information from insurers on a uniform basis to identify concerns regarding claims and underwriting.⁸³ Homeowners’ insurance companies report data via MCAS using uniform definitions and reporting requirements across all states.⁸⁴ The MCAS data below contains the percentage of nationwide homeowners’ claims and suits opened in Florida over the past six years.⁸⁵

| Year | Percent of Nationwide Homeowners’ Claims Opened in Florida | Percent of Nationwide Homeowners’ Suits Opened in Florida |
|------|--|---|
| 2016 | 7.75% | 64.43% |
| 2017 | 16.46% | 68.07% |
| 2018 | 11.85% | 79.91% |
| 2019 | 8.16% | 76.45% |
| 2020 | 8.81% | 79.16% |

⁸⁰ Section 626.9541(1)(i), F.S.

⁸¹ Section 626.9521(2), F.S.

⁸² Insurance Stability Report, p. 3.

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

| | | |
|------|-------|-----|
| 2021 | 6.91% | 76% |
|------|-------|-----|

Presuit Notice to Initiate Litigation

A property insurance claimant must provide the DFS with written notice of intent to initiate litigation at least 10 business days before filing suit.⁸⁶ The notification must be made on a form provided by the DFS and may not be given before the earlier of the insurer's denial of coverage or the expiration of the 90-day period to adjust a claim under s. 627.70131, F.S.⁸⁷ The notice must detail the alleged acts or omissions of the insurer giving rise to the suit. If the insurer denied coverage, the notice must include an estimate of damages, if known. If the insurer did not deny coverage, notice must include a presuit settlement demand that itemizes damages, attorney fees, costs, and the disputed amount. The notice may include supporting documents. The notice and supporting documents are admissible only in a proceeding regarding attorney fees.⁸⁸ A court must dismiss without prejudice any claimant's suit if the claimant has not complied with the requirement to provide 10 business days' notice of intent to initiate litigation.⁸⁹

The insurer must respond in writing within 10 business days after receiving notice of intent to initiate litigation.⁹⁰ If the insurer denied coverage, the insurer must either accept coverage, deny coverage, or assert the right to re-inspect the property within 14 business days.⁹¹ If the notice alleges the insurer did an act other than denying coverage, the insurer must respond by making a settlement offer or requiring the claimant to participate in an appraisal or another method of alternative dispute resolution (ADR).⁹² If appraisal or ADR is not concluded within 90 days after the 10-day notice of intent to initiate litigation, the claimant may immediately file suit.⁹³

Consolidation of Multiple Residential Property Insurance Actions

Each party that is aware of ongoing multiple actions, based upon coverage provided under the same residential property insurance policy for the same property and owners, must provide written notice to the court of the multiple actions.⁹⁴ Once the court receives notice, it may order that the actions be consolidated and transferred to the court having jurisdiction based on the total amount in controversy of all consolidated claims. If multiple cases are pending in circuit courts, the cases may be consolidated based on the date the first case was filed.

Awarding Attorney Fees in Litigation

In most United States jurisdictions, each party to civil litigation pays its own attorney, regardless of the outcome of the litigation, and a court may only award attorney fees to the prevailing side if authorized by statute or agreement of the parties to the litigation.⁹⁵ This is often referred to as the

⁸⁶ Section 627.70152(3)(a), F.S.

⁸⁷ *Id.*

⁸⁸ Section 627.70152(6)(a), F.S.

⁸⁹ Section 627.70152(5), F.S.

⁹⁰ Section 627.70152(4), F.S.

⁹¹ Section 627.70152(4)(a), F.S.

⁹² Section 627.70152(4)(b), F.S.

⁹³ *Id.*

⁹⁴ Section 627.70153, F.S.

⁹⁵ *Florida Patient's Compensation Fund v. Rowe*, 472 So.2d 1145, 1147-1148 (Fla. 1985).

“American Rule” for attorney fees, and contravenes the “English Rule” under which English courts generally awarded attorney fees to the prevailing party in litigation.⁹⁶

Florida has enacted a number of statutes that authorize courts to award attorney fees in civil litigation. As the Florida Supreme Court has noted, these statutory provisions generally fall into two categories.⁹⁷ In the first category, statutes direct a court to assess attorney fees against only one side in certain types of actions. An example is found in s. 627.428, F.S., which directs the court to assess reasonable attorney fees against the insurer and in favor of the insured or a beneficiary who prevails in litigation. The second category follows the English Rule and authorizes the prevailing party, whether it is the plaintiff or the defendant, to recover its attorney fees from the opposing party.

Attorney Fees Arising from Insurance Litigation

Section. 627.428, F.S., allows an insured to recover attorney fees if he or she prevails in a lawsuit against the insurer to enforce an insurance policy – which has been referred to as the “one-way attorney fee” in insurance litigation.⁹⁸ Some version of this statute has been the law in Florida since at least 1893.⁹⁹ The statute provides, in part:

Upon the rendition of a judgment or decree by any of the courts of this state against an insurer and in favor of any named or omnibus insured or the named beneficiary under a policy or contract executed by the insurer, the trial court or, in the event of an appeal in which the insured or beneficiary prevails, the appellate court shall adjudge or decree against the insurer and in favor of the insured or beneficiary a reasonable sum as fees or compensation for the insured’s or beneficiary’s attorney prosecuting the suit in which the recovery is had.¹⁰⁰

Section 626.9373, F.S., applies the same standard to suits against a surplus lines insurers.

In 2021, the Legislature amended s 627.428, F.S., and s. 626.9373, F.S., to provide that for suits arising under residential and commercial property insurance policies, attorney fees may only be awarded as provided in s. 627.70152, F.S., or if the court imposes sanctions for prohibited litigation tactics under s. 57.105, F.S. The provisions of s. 627.70152, F.S., apply exclusively to all suits not brought by an assignee arising under a residential or commercial property insurance policy, including such coverage issued by an eligible surplus lines insurer. Under this statute, attorney fees and costs are awarded based on a formula that compares the amount obtained by

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ Other states with similar “one-way” attorney fee provisions for insureds are Arkansas (Ark. Code s. 23-79-208), Delaware (18 Del. Code s. 4102), Hawaii (Hi. Rev. Stat. s. 431:10-242), Idaho (Id. Code 41-1839), Kansas (Kan. Stat. s. 40-256), Nebraska (Neb. Rev. Stat. Ann. S. 44-359), New Hampshire (N.H. Rev. Stat. s. 491-22-b), New Jersey – by court rule (N.J. Court R. 4:42-9(a)(6)), New Mexico (N.M. Stat. s. 39.2-1), North Carolina - for litigation not over \$25,000 (N.C. Gen. Stat. s. 6-21.1), and Texas (Tex. Ins. Code s. 542.060).

⁹⁹ See *Tillis v. Liverpool & London & Globe Insurance Company*, 35 So. 171 (Fla. 1903) (rejecting an insurance company argument that the 1893 law providing that an insured may recover attorney fees in actions against an insurance company to enforce a policy violates due process and equal protection).

¹⁰⁰ Section 627.428(1), F.S. This is similar to the language in s. 626.9373, F.S., which applies to surplus lines insurers. Florida courts interpret the statutes to have the same meaning.

the claimant in excess of the insurer's presuit settlement offer (exclusive of attorney fees and costs) with the disputed amount between the two parties (the difference between the claimant's presuit settlement demand and the insurer's presuit settlement offer, also exclusive of attorney fees and costs).¹⁰¹ If the amount obtained by the claimant in excess of the insurer's presuit settlement offer is:

- Less than 20 percent of the disputed amount, each party pays its own attorney fees and costs.
- At least 20 percent but less than 50 percent of the disputed amount, the insurer pays the claimant's attorney fees equal to the percentage of the disputed amount obtained times the total attorney fees and costs.
- At least 50 percent of the disputed amount, the insurer pays the claimant's full attorney fees and costs.

The statute creates a strong presumption that a "lodestar fee is sufficient and reasonable."¹⁰² The "presumption may be rebutted only in a rare and exceptional circumstance with evidence that competent counsel could not be retained in a reasonable manner."¹⁰³ The lodestar amount is calculated as the product of the number of hours reasonably expended multiplied by a reasonable hourly rate.

Attorney Fees Arising from Assignment of Benefits

Section 627.7152, F.S., prevents recovery of "one way" attorney fees under s. 627.428, F.S., for assignees of post-loss benefits under a residential property insurance policy or commercial property insurance policy. Instead, an assignee may only recover attorney fees and costs if sanctions are imposed under s. 57.105, F.S.¹⁰⁴

Subsection 626.9373(3), F.S., and s. 627.428(4), F.S., prohibit assignment of the right to obtain attorney fees in suits arising out of a property insurance policy to persons other than a named or omnibus insured or a named beneficiary under the policy. This prohibition applies to surplus lines and authorized insurers.

Attorney Fees Arising from Unsupported Claims, Defenses, or Delays

Section 57.105, F.S., provides the court with authority to award attorney fees, including prejudgment interest, to the prevailing party if the court finds the losing party or losing party's attorney brought a civil claim or raised a defense in a civil cause of action that has no good faith legal or genuine factual basis. The court may also award attorney fees if the opposing party took any action, including, but not limited to, the filing of any pleading or part thereof, the assertion of or response to any discovery demand, the assertion of any claim or defense, or the response to any request by any other party, for the primary purpose of unreasonable delay.¹⁰⁵

¹⁰¹ Section 627.70152(8), F.S.

¹⁰² Section 627.70152(8)(c), F.S.

¹⁰³ *Id.*

¹⁰⁴ Section 627.7152(10), F.S.

¹⁰⁵ Section 57.105(1) and (2), F.S.

Attorney Fees Arising from Offers of Judgment

Section 768.79, F.S., provides for attorney fees where a party's offer to settle a case has been rejected. The statute states, in part:

(1) In any civil action for damages filed in the courts of this state, if a defendant files an offer of judgment which is not accepted by the plaintiff within 30 days, the defendant shall be entitled to recover reasonable costs and attorney's fees incurred by her or him ... if the judgment is one of no liability or the judgment obtained by the plaintiff is at least 25 percent less than such offer.... If a plaintiff files a demand for judgment which is not accepted by the defendant within 30 days and the plaintiff recovers a judgment in an amount at least 25 percent greater than the offer, she or he shall be entitled to recover reasonable costs and attorney's fees....

An offer must:

- Be in writing and state that it is being made pursuant to this section;
- Name the party making it and the party to whom it is being made;
- State with particularity the amount offered to settle a claim for punitive damages, if any; and
- State its total amount.¹⁰⁶

The court may disallow an award of costs and attorney fees to the prevailing party if it is determined the prevailing party did not make the offer in good faith.¹⁰⁷ When determining the reasonableness of an award of attorney fees, the court must consider the following factors along with other relevant criteria:

- The then apparent merit or lack of merit in the claim;
- The number and nature of offers made by the parties;
- The closeness of questions of fact and law at issue;
- Whether the person making the offer had unreasonably refused to furnish information necessary to evaluate the reasonableness of such offer;
- Whether the suit was in the nature of a test case presenting questions of far-reaching importance affecting nonparties; and
- The amount of the additional delay cost and expense that the person making the offer reasonably would be expected to incur if the litigation should be prolonged.¹⁰⁸

Prior to the passage of SB 76 by the legislature in 2022,¹⁰⁹ property insurance litigation was subject to both s. 627.428, F.S., and s. 768.79, F.S.¹¹⁰ Florida courts applied both statutes to the same litigation. Section 627.428, F.S., governed the award of attorney fees prior to the insurer making an offer of judgment, while both s. 627.428, F.S., or s. 768.79, F.S., applied to the award of attorney fees after an offer of judgment was made, depending on how much the insured recovered. The Florida Supreme Court in *State Farm Mut. Auto Ins. Co. v. Nichols* explained

¹⁰⁶ Section 768.79(2), F.S.

¹⁰⁷ Section 768.79(7)(a), F.S.

¹⁰⁸ Section 768.79(7)(b), F.S.

¹⁰⁹ The Legislature enacted s. 627.70152, F.S., in 2022 that applies exclusively to all suits not brought by an assignee arising under a residential or commercial property insurance policy. See s. 12, ch. 2021-77, Laws of Fla.

¹¹⁰ See *Pennsylvania Lumbermans Mut. Ins. Co. v. Sunrise Club Inc.*, 711 So.2d 593 (Fla. 3rd DCA 1998).

how the two statutes interacted in different circumstances by including the following chart in its opinion:¹¹¹

| If the judgment is: | The insured receives: | The insurer receives: |
|--|---------------------------------------|--|
| No liability | No fees | Post-offer fees under the offer of judgment statute. |
| 75 percent or less of the insurer’s offer | Pre-offer fees under s. 627.428, F.S. | Post-offer fees under the offer of judgment statute. |
| More than 75 percent of the insurer’s offer, but not more than 100 percent | Pre-offer fees under s. 627.428, F.S. | No fees. |
| More than the insurer’s offer | All fees under s. 627.428, F.S. | No fees. |

Statutory and Common Law Bad Faith Actions

Florida’s bad faith law and jurisprudence were designed to hold insurers accountable for failing to fulfill their contractual obligation to indemnify the insured or beneficiary on a valid claim.¹¹² Florida recognizes two distinct bad faith causes of action that may be initiated against an insurer. In the first, s. 624.155, F.S., provides first-party and third-party statutory bad faith causes of action against an insurer. Here, bad faith is defined as the commission of any of the following acts by the insurer that damages any person:

- Violating certain provisions of the Florida Insurance Code such as specified provisions of the unfair insurance trade practices act under s. 626.9541, F.S.
- Not attempting in good faith to settle claims when, under all the circumstances, it could and should have done so, had it acted fairly and honestly toward its insured with due regard for her or his interests;
- Making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which payments are being made; or
- Except as to liability coverages, failing to promptly settle claims, when the obligation to settle the claim has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage.¹¹³

The second recognized bad faith cause of action provides a third-party common law cause of action when an insurer fails in good faith to settle a third party’s claim against the insurer within policy limits and exposes the insured to liability in excess of his or her insurance coverage.¹¹⁴ Florida courts do not recognize a common law first-party bad faith causes of action by the

¹¹¹ *State Farm Mut. Auto. Ins. Co. v. Nichols*, 932 So.2d 1067, 1074 (Fla. 2006).

¹¹² *Harvey v. GEICO General Insurance Company*, 259 So.3d 1, 6, (Fla. 2018) (quoting *Berges v. Infinity Insurance Company*, 896 So.2d 665, 682 (Fla. 2004)).

¹¹³ Section 624.155(1)(b)(1)-(3), F.S.

¹¹⁴ *Opperman v. Nationwide Mutual Fire Insurance Company*, 515 So.2d 263, 265 (Fla. 5th DCA 1987).

insured against its own insurer.¹¹⁵ Most property insurance claims are first-party claims¹¹⁶, thus bad faith actions on such claims may proceed only pursuant to s. 624.155, F.S.

Presuit Notice to Initiate Bad Faith Litigation

As a condition precedent to bringing a bad faith cause of action under s. 624.155, F.S., the insured must have provided the insurer and the Department of Financial Services at least 60 days written notice of the alleged violation.¹¹⁷ The 60-day window contemplated under s. 624.155, F.S., provides insurers with a final opportunity to comply with their claim-handling obligations when a good-faith decision by the insurer would indicate that contractual benefits are owed.¹¹⁸ The civil remedy notice must specify the following information:

- The statutory provision, including the specific language of the statute, which the authorized insurer allegedly violated;
- The facts and circumstance giving rise to the violation;
- The name of any individual involved in the violation;
- A reference to specific policy language that is relevant to the violation, if any. If the person bringing the civil action is a third-party claimant, she or he shall not be required to reference the specific policy language if the authorized insurer has not provided a copy of the policy to the third party claimant pursuant to written request; and
- A statement that the notice is given in order to perfect the right to pursue the civil remedy authorized under s. 624.155, F.S.¹¹⁹

Response by the Insurer in Bad Faith Litigation

If the insurer fails to respond to a civil remedy notice under s. 624.155, F.S., within the 60-day window, there is a presumption of bad faith sufficient to shift the burden to the insurer to show why it did not respond.¹²⁰ No action shall lie if the insurer responds within 60 days of receipt of the civil remedy notice by either paying damages or correcting the circumstances giving rise to the claim.¹²¹

Statutory Bad Faith Actions against Property Insurers

The Legislature, in 2022,¹²² created s. 624.1551, F.S., requiring a claimant to establish that a property insurer breached the insurance contract in order for the claimant to prevail in a bad faith claim for extracontractual damages under s. 624.155(1)(b), F.S. The provision applies to civil remedy actions based upon a property insurer:

¹¹⁵ *State Farm Mut. Auto. Ins. Co. v. Laforet*, 658 So.2d 55, 58-59 (Fla. 1995).

¹¹⁶ Homeowners insurance provides liability coverage, thus third-party litigation may occur under a property insurance policy.

¹¹⁷ Section 624.155(3), F.S.

¹¹⁸ *See Talat Enterprises, Inc., v. Aetna Cas. and Sur. Co.*, 753 So.2d 1278, 1284 (Fla. 2000).

¹¹⁹ Section 624.155(3)(b)(1)-(5), F.S.

¹²⁰ *Fridman v. Safeco Ins. Co. of Illinois*, 185 So.3d 1214, 1220, (Fla. 2016); *Imhof v. Nationwide Mut. Ins. Co.*, 643 So.2d 617, 619 (Fla 1994).

¹²¹ *Id.*

¹²² Sections 11 and 12, ch. 2022-268, Laws of Fla.

- Not attempting in good faith to settle claims when, under all the circumstances, it could and should have done so, had it acted fairly and honestly toward its insured and with due regard for his or her interests;
- Making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which payments are being made; or
- Except as to liability coverages, failing to promptly settle claims, when the obligation to settle a claim has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy.

The enactment of 624.1551, F.S., follows decisions by Florida courts that considered whether conditions precedent must be met before bad faith causes of action become ripe for litigation. In *Cammarata v. State Farm Fla. Ins. Co.*, the Court held an insurer's liability for coverage and the extent of damages owed must be determined before a statutory bad faith cause of action was ripe.¹²³ However, it also held that breach of contract need not necessarily be determined before a bad faith action may be filed. The *Cammarata* Court found that "the parties' settlement via the appraisal process, which determined the existence of liability and the extent of the insured's damages, established the first two conditions precedent of a bad faith action."¹²⁴

While the newly created s. 624.1551, F.S., does not address the *Cammarata* decision directly because it does not address conditions precedent to bringing suit, the bill has the effect of receding from the decision to the extent it requires that a breach of contract be established in order to prevail in such a lawsuit. Furthermore, the bill may eliminate the ability of a claimant to bring a statutory bad faith lawsuit where the parties have settled through informal means, or in the alternative dispute resolution or appraisal processes because a breach of contract would not likely have been determined during those processes.

Assignments of Benefits

Assignment Agreements Generally

An assignment is the voluntary transfer of the rights of one party under a contract to another party, the transfer by a party to another party of some valuable interest.¹²⁵ Current Florida law generally allows an insurance policyholder to assign the benefits of the policy, such as the right to be paid, to another party. This assignment is often called an "assignment of benefits" or "AOB." Once an assignment is made, the assignee can take action to enforce the contract. Accordingly, if the benefits are assigned and the insurer refuses to pay, the assignee may file a lawsuit against the insurer to recover the insurance benefits.¹²⁶

Assignment of Benefits - Insurance

Subsection 627.428(1), F.S., provides that "any named or omnibus insured or the named beneficiary under a policy" may be entitled to attorney fees. In 1971, the Fourth District Court of

¹²³ *Cammarata v. State Farm Fla. Ins. Co.*, 152 So.3d 606, 607 (Fla. 4th DCA 2014). In *Cammarata*, the claim was settled through the appraisal process using a neutral umpire appointed by the court at the request of the parties.

¹²⁴ *Id.* at 612.

¹²⁵ Black's Law Dictionary, 2nd Ed., <https://thelawdictionary.org/assignment/> (last visited Dec. 6, 2022).

¹²⁶ *Nationwide Mutual Insurance Company v. Pinnacle Medical, Inc.*, 753 So.2d 55, 57 (Fla. 2000) ("The right of an assignee to sue for breach of contract to enforce assigned rights predates the Florida Constitution.").

Appeal considered whether the insured's assignee of benefits from a property insurance policy was entitled to attorney fees and held the assignee was not entitled to fees because the assignee was not a named insured or beneficiary.¹²⁷ However, the Fourth District's opinion was appealed to the Florida Supreme Court and the Florida Supreme Court reversed, holding that an insured's assignee is entitled to attorney fees under s. 627.0127, F.S., the predecessor statute to s. 627.428, F.S.¹²⁸ The court held that "an assignee of an insurance claim stands to all intents and purposes in the shoes of the insured and logically should be entitled to an attorney's fee when he sues and recovers on the claim."¹²⁹

The court reaffirmed the holding in 2008:

[S]ection 627.428 authorizes an award of attorney's fees only to "the named or omnibus insured or named beneficiary" under an insurance policy and to other third parties who obtain coverage based on an assignment from an insured.¹³⁰

Section 627.422, F.S., governs the assignability of insurance contracts and provides that a policy may or may not be assignable according to its terms. The statute provides that a "property insurance policy may not prohibit the assignment of post-loss benefits unless it complies with s. 627.7153."¹³¹

Assignment of Benefits – Property Insurance

The Legislature, in 2019,¹³² created s. 627.7152, F.S., relating to assignment agreements under residential or commercial property insurance policies. Under this statute, an AOB is an instrument that assigns or transfers post-loss benefits to or from "a person providing services, including, but not limited to, inspecting, protecting, repairing, restoring, or replacing the property or mitigating against further damage to the property."¹³³ Fees charged by a public adjuster are not included in the definition of assignment agreement.¹³⁴ A valid AOB must specify that the assignee will hold harmless the assignor from all liabilities, including attorney fees.¹³⁵ Insurers are allowed to make available a policy that restricts in whole or in part an insured's right to execute an assignment agreement, including post-loss benefits, under certain conditions. The 2019 provisions also directed the court to award an attorney fee to the statutorily defined prevailing party in assignment of benefits litigation under a residential or commercial property insurance policy. However, the Legislature, in 2022,¹³⁶ amended the statute to:

- Prohibit assignment of the right to obtain attorney fees in suits arising out of a property insurance policy to persons other than a named or omnibus insured or a named beneficiary under the policy.

¹²⁷ *Southern American Fire Insurance Company v. All Ways Reliable Building Maintenance, Inc.*, 251 So.2d 11 (Fla. 4th DCA 1971), *reversed*, *All Ways Reliable Building Maintenance, Inc. v. Moore*, 261 So.2d 131 (Fla. 1972).

¹²⁸ *All Ways Reliable Bldg. Maintenance, Inc. v. Moore*, 261 So.2d 131 (1972).

¹²⁹ *Id.* at 132.

¹³⁰ *Continental Cas. Co. v. Ryan, Inc. Eastern*, 974 So.2d 368, 379 (citation omitted) (Fla. 2008).

¹³¹ Section 627.422(2), F.S.

¹³² Section 1, ch. 2019-57, Laws of Fla.

¹³³ Section 627.7152(1)(b), F.S.

¹³⁴ *Id.*

¹³⁵ Section 627.7152(2)(a)7., F.S.

¹³⁶ Section 18, ch. 2022-268, Laws of Fla.

- Eliminate the provision providing for attorney fees to the prevailing party.

The Legislature, in 2019,¹³⁷ created s. 627.7153, F.S., providing that property insurers may offer a policy prohibiting or restricting assignment of benefits, including post-loss benefits, under certain terms. To do so, the insurer must make available to the insured or potential insured at the same time the same coverage under a policy that does not restrict the right to execute an assignment agreement.¹³⁸

The Legislature, in 2022,¹³⁹ amended ss. 626.9373 and 627.428, F.S., respectively, to prohibit assignment of the right to obtain attorney fees in suits arising out of a property insurance policy to persons other than a named or omnibus insured or a named beneficiary under the policy. This prohibition applies to surplus lines and authorized insurers. As a result, assignment agreements may occur, but the assignee vendor will no longer be able to recover attorney fees in suits against an insurer.

In recent years, insurers have complained of abuse of the assignment of benefits process. An insurance company described the issue in a court filing:

The typical scenario surrounding the use of an “assignment of benefits” involved vendors and contractors, mostly water remediation companies, who were called by an insured immediately after a loss to perform emergency remediation services, such as water extraction. The vendor came to the insured’s home and, before performing any work, required the insured to sign an “assignment of benefits” – when the insured would be most vulnerable to fraud and price gouging. Vendors advised the insured, “We’ll take care of everything for you.” The vendor then submitted its bill to the insurer that was, on average, nearly 30 percent higher than comparative estimates from vendors without an assignment of benefits. Some vendors added to the invoice an additional 20 percent for “overhead and profit,” even though a general contractor would not be required or hired to oversee the work. Vendors used these inflated invoices to extract higher settlements from insurers. This, in turn, significantly increases litigation over the vendors’ invoices.¹⁴⁰

In a court filing in a different case, a company that provides emergency repair and construction services explained the rationale behind assignments of insurance benefits:

As a practical matter, a homeowner often will not be able to afford or hire a contractor immediately following a loss unless the contractor accepts an assignment of benefits to ensure payment. A homeowner may be unable to comply with the ... provision requiring the homeowner to protect and repair the premises unless the remediation contractor accepts an assignment of benefits,

¹³⁷ Section 2, ch. 2019-57, Laws of Fla.

¹³⁸ Section 627.7153(2), F.S.

¹³⁹ Sections 11 and 12, ch. 2022-268, Laws of Fla.

¹⁴⁰ *Security First Insurance Company v. State of Florida, Office of Insurance Regulation*, Case No. 1D14-1864 (Fla. 1st DCA 2015), Appellant’s Initial Brief at pp. 3-4 (appellate record citations omitted).

however, contractors will become unwilling to accept payments by assignment if court decisions render the assignments unenforceable ...

Whether the repair invoice is routed through the insured or submitted by the service provider directly by assignment, the service provider's repair invoice is submitted to the insurer for coverage and reviewed by an adjuster. The only difference an assignment makes is that, if an insurance company wishes to partially deny coverage or contest an invoice as unreasonable, the insured policyholder is not mired in litigation in which he or she has no stake.¹⁴¹

Citizens Property Insurance Corporation—Overview

Citizens Property Insurance Corporation (Citizens or corporation) is a state-created, not-for-profit, tax-exempt governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market.¹⁴² Citizens is not a private insurance company.¹⁴³ Citizens was statutorily created in 2002 when the Florida Legislature combined the state's two insurers of last resort, the Florida Residential Property and Casualty Joint Underwriting Association (RPCJUA) and the Florida Windstorm Underwriting Association (FWUA).¹⁴⁴

Citizens operates in accordance with the provisions in s. 627.351(6), F.S., and is governed by an eight member Board of Governors (board) that administers its Plan of Operations. The Plan of Operations is reviewed and approved by the Financial Services Commission.¹⁴⁵ The Governor, President of the Senate, Speaker of the House of Representatives, and Chief Financial Officer each appoint two members to the board.¹⁴⁶ Citizens is subject to regulation by the OIR.

Citizens has three different accounts through which it offers property insurance: a personal lines account, a commercial lines account, and a coastal account.

Citizens' Accounts

The Personal Lines Account (PLA) offers personal lines residential policies that provide comprehensive, multi-peril coverage statewide, except for those areas contained in the Coastal Account. The PLA also writes policies that exclude coverage for wind in areas contained within the Coastal Account. Personal lines residential coverage consists of the types of coverage provided to homeowners, mobile home owners, dwellings, tenants, and condominium unit owner's policies.¹⁴⁷

¹⁴¹ *One Call Property Services, Inc. v. Security First Insurance Company*, Case No. 4D14-0424 (Fla. 4th DCA 2015), Appellant's Initial Brief at 46-48.

¹⁴² Admitted market means insurance companies licensed to transact insurance in Florida.

¹⁴³ Section 627.351(6)(a)1., F.S.

¹⁴⁴ Section 2, ch. 2002-240, Laws of Fla.

¹⁴⁵ Section 627.351(6)(a)2., F.S.

¹⁴⁶ Section 627.351(6)(c)4.a., F.S.

¹⁴⁷ See s. 627.351(6)(b)2.a., F.S.; Citizens, *Account History and Characteristics*, <https://www.citizensfla.com/documents/20702/1183352/20160315+05A+Citizens+Account+History.pdf/31f51358-7105-40e9-aa75-597f51a99563> (Mar. 2016) (last visited Dec. 4, 2022).

The *Commercial Lines Account (CLA)* offers commercial lines residential and non-residential policies that provide basic perils coverage statewide, except for those areas contained in the Coastal Account. The CLA also writes policies that exclude coverage for wind in areas contained within the Coastal Account. Commercial lines coverage includes commercial residential policies covering condominium associations, homeowners’ associations, and apartment buildings. The coverage also includes commercial non-residential policies covering business properties.¹⁴⁸

The *Coastal Account* offers personal residential, commercial residential, and commercial non-residential policies in coastal areas of the state. Citizens must offer policies that solely cover the peril of wind (wind only policies) and may offer multi-peril policies.¹⁴⁹

The Citizens policyholder eligibility clearinghouse program was established by the Legislature in 2013.¹⁵⁰ Under the program, new and renewal policies for Citizens are placed into the clearinghouse where participating private insurers can review and decide to make offers of coverage before policies are placed or renewed with Citizens.¹⁵¹ An applicant for new coverage, or an insured for renewed coverage, is not eligible for coverage from Citizens if the premium offered from an authorized insurer is at or below the eligibility threshold for new personal lines residential risks of more than 20 percent.¹⁵² An applicant for coverage who was declared ineligible for coverage at renewal by Citizens in the previous 36 months must be considered a renewal under the Citizens’ clearinghouse statute if the authorized insurer making the offer continues to insure the applicant and increased the rate higher than allowed under s. 627.351(6)(n)5., F.S.¹⁵³

Current Policies

As of December 31, 2021, Citizens reports 759,305 policies in-force with a total exposure of \$232,502,323,529.¹⁵⁴ As of October 31, 2022, Citizens reports 1,111,283 policies in-force with a total exposure of \$398,857,062,260 and premium with surcharges of \$3,023,462,297.¹⁵⁵ The chart below outlines Citizens account, number of policies in-force, total exposure and premium with surcharges.

| Account | Policies In-Force | Total Exposure | Premium with Surcharges |
|---------|-------------------|-------------------|-------------------------|
| PLA | 885,505 | \$298,071,397,688 | \$2,155,714,380 |
| Coastal | 224,815 | \$91,079,016,012 | \$818,528,543 |
| CLA | 963 | \$9,706,648,560 | \$49,219,374 |
| | 1,111,283 | \$398,857,062,260 | \$3,023,462,297 |

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ Section 10, ch. 2013-60, Laws of Fla.

¹⁵¹ Section 627.3518(2)-(3), F.S.

¹⁵² Section 627.3518(5), F.S.

¹⁵³ *Id.*

¹⁵⁴ Citizens, *About Us, Snapshot*, Dec. 31, 2021, <https://www.citizensfla.com/-/20211231-policies-in-force> (last visited Dec. 4, 2022).

¹⁵⁵ Citizens, *Detail by Account*, Nov. 13, 2022, [356cef06-df92-a6e5-6001-d2b8e1573430 \(citizensfla.com\)](https://www.citizensfla.com/356cef06-df92-a6e5-6001-d2b8e1573430) (last visited Dec. 7, 2022).

Source: Citizens Property Insurance¹⁵⁶

From December 31, 2021 to October 31, 2022, Citizens' policy count grew by over 45 percent, adding 51,978 total policies in-force, and its total exposure has risen by \$166,354,738,731.

Eligibility for Insurance in Citizens

Current law requires Citizens to provide a procedure for determining the eligibility of a potential risk for insurance in Citizens and provides specific eligibility requirements based on premium amounts, value of the property insured, and the location of the property.¹⁵⁷ Risks not meeting the statutory eligibility requirements cannot be insured by Citizens. Citizens has additional eligibility requirements set out in their underwriting rules. These rules are approved by the OIR and are set out in Citizens' underwriting manuals.¹⁵⁸

Eligibility Based on Premium Amount

An applicant for residential insurance cannot buy insurance in Citizens if an authorized insurer in the private market offers the applicant insurance for a premium that does not exceed the Citizens premium by 20 percent or more.¹⁵⁹ In addition, the coverage offered by the private insurer must be comparable to Citizens' coverage.

A residential policyholder cannot renew insurance in Citizens if an authorized insurer offers to insure the property at a premium equal to or less than the Citizens' renewal premium. The insurance from the private market insurer must be comparable to the insurance from Citizens in order for the eligibility requirement for renewal premium to apply.¹⁶⁰

Eligibility Based on Value of Property Insured

In addition to the eligibility restrictions based on premium amount, current law provides eligibility restrictions for homes and condominium units based on the value of the property insured.¹⁶¹ Structures with a dwelling replacement cost of \$700,000 or more, or a single condominium unit that has a combined dwelling and contents replacement cost of \$700,000 or more, are not eligible for coverage with Citizens.¹⁶² However, Citizens is allowed to insure structures with a dwelling replacement cost or a condominium unit with a dwelling and contents replacement cost of one million dollars or less in Miami-Dade and Monroe counties, after the OIR determined these counties to be non-competitive.¹⁶³

¹⁵⁶ *Id.*

¹⁵⁷ Section 627.351(6)(c)5., F.S.

¹⁵⁸ See Citizens, *Revised Underwriting Manuals*, <https://www.citizensfla.com/-/20160329-revised-underwriting-manuals> (last visited Dec. 5, 2022).

¹⁵⁹ Section 627.351(6)(c)5., F.S.

¹⁶⁰ Section 627.351(6)(c)5., F.S.

¹⁶¹ Section 627.351(6)(a)3., F.S.

¹⁶² Section 627.351(6)(a)3.d., F.S.

¹⁶³ The OIR, Final Order Case No: 165625-14, Dec. 22, 2014, <https://www.floir.com/siteDocuments/Citizens165625-14-O.pdf>; See also Section 627.351(6)(a)3.d., F.S., and Citizens, *Update to Maximum Coverage Limits*, Nov. 12, 2019, <https://www.citizensfla.com/-/2019-roof-permits-acceptable-for-fbc-credits> (all sites last visited Dec. 5, 2022).

Citizens Glidepath Rates

From 2007 until 2010, Citizens' rates were frozen by statute at the level that had been established in 2006.¹⁶⁴ In 2010, the Legislature established a "glidepath" to impose annual rate increases up to a level that is actuarially sound. Under the original established glidepath, Citizens had to implement an annual rate increase which, except for sinkhole coverage, does not exceed 10 percent above the previous year for any individual policyholder, adjusted for coverage changes and surcharges.¹⁶⁵ In 2021, the Legislature revised this glidepath to increase it one percent per year to up to 15 percent, as follows:¹⁶⁶

- 11 percent for 2022.
- 12 percent for 2023.
- 13 percent for 2024.
- 14 percent for 2025.
- 15 percent for 2026 and all subsequent years.

The implementation of this increase ceases when Citizens has achieved actuarially sound rates.¹⁶⁷ In addition to the overall glidepath rate increase, Citizens can increase its rates to recover the additional reimbursement premium it incurs as a result of the annual cash build-up factor added to the price of the mandatory layer of the Florida Hurricane Catastrophe Fund coverage, pursuant to s. 215.555(5)(b), F.S.¹⁶⁸

Citizens Financial Resources

Citizens' financial resources include insurance premiums, investment income, and operating surplus from prior years, Florida Hurricane Catastrophe Fund (FHCF) reimbursements, private reinsurance, policyholder surcharges, and regular and emergency assessments. Non-weather water losses, reinsurance costs and litigation are currently the major determinants of insurance rates.¹⁶⁹ In the event of a catastrophic storm or series of smaller storms, reserves could be exhausted, leaving Citizens unable to pay all claims.¹⁷⁰ Under Florida law, if the Citizens' Board of Directors determines a Citizens' account has a projected deficit, Citizens is authorized to levy assessments¹⁷¹ on its policyholders and on each line of property and casualty line of business other than workers' compensation insurance and medical malpractice insurance.¹⁷² Citizens may impose three assessment tiers and their sequence is as follows:¹⁷³

¹⁶⁴ Section 15, ch. 2006-12, Laws of Fla.

¹⁶⁵ Section 10, ch. 2009-87, Laws of Fla.

¹⁶⁶ Section 627.351(6)(n)5., F.S.

¹⁶⁷ Section 627.351(6)(n)7., F.S.

¹⁶⁸ Section 627.351(6)(n)6., F.S.

¹⁶⁹ Citizens, *2022 Rate Kit, Citizens 2021 Rates, Frequently Asked Questions*, <https://www.citizensfla.com/documents/20702/15725518/20211213+2022+Rate+Kit.pdf/328181e5-1c41-a28d-76ea-b7d911462c6a?t=1639433573548> (last visited Dec. 5, 2022).

¹⁷⁰ Citizens, *Insurance/Insurance 101/Assessments*, <https://www.citizensfla.com/assessments> (last visited Dec. 5, 2022) (hereinafter cited as "Citizens' Assessments").

¹⁷¹ Assessments are charges that Citizens and non-Citizens policyholders can be required to pay, in addition to their regular policy premiums.

¹⁷² Accident and health insurance policies written under the National Flood Insurance Program or the Federal Crop Insurance Program are not assessable types of property and casualty insurance. Surplus lines insurers are not assessable, but their policyholders are. Section 627.351.(6)(b)3.f.-h., F.S.

¹⁷³ Citizens' Assessment.

Citizens Policyholder Surcharge – A surcharge of up to 15 percent of premium on all Citizens' policies, collected upon issuance or renewal. This 15 percent assessment can be levied for each of the three Citizens' accounts—the CLA, the PLA, and the Coastal Account—that project a deficit. Thus, the total maximum premium surcharge a policyholder could be assessed is 45 percent.¹⁷⁴

Regular Assessment – If the Citizens' surcharge is insufficient to cure the deficit for the coastal account, Citizens can require an assessment against all other insurers except medical malpractice and workers' compensation. The assessment may be recouped from policyholders through a rate filing process of up to two percent of premium or two percent of the deficit, whichever is greater.¹⁷⁵ This assessment is not levied against Citizens' policyholders.

Emergency Assessment – Requires any remaining deficit for Citizens' three accounts be funded by multi-year emergency assessments on all insurance policyholders (except medical malpractice and workers' compensation), including Citizens' policyholders. This assessment may not exceed the greater of 10 percent of the amount needed to cover the deficit, plus interest, fees, commissions, required reserves, and other costs associated with financing the original deficit, or 10 percent of the aggregate statewide direct written premium for subject lines of business and all accounts of the corporation for the prior year, plus interest, fees, commissions, required reserves, and other costs associated with financing the deficit.¹⁷⁶

Citizens Depopulation

Florida law requires Citizens to create programs to help return Citizens policies to the private market and reduce the risk of additional assessments for all Floridians.¹⁷⁷ In 2016, the Legislature passed requirements that Citizens, by January 1, 2017, amend its operations relating to take-out agreements.¹⁷⁸ As part of these updated requirements, codified under s. 627.351(6)(ii), F.S., a policy may not be taken out of Citizens unless Citizens:

- Publishes a periodic schedule of cycles during which an insurer may identify, and notify Citizens of, policies the insurer is requesting to take out;¹⁷⁹
- Maintains and makes available to the agent of record a consolidated list of all insurers requesting a take-out policy; such list must include a description of the coverage offered and the estimated premium for each take-out request; and
- Provides written notice to the policyholder and agent regarding all insurers requesting to take out the policy and the policyholder's option to accept a take-out offer or to reject all take out offers and to remain with the corporation. The notice must be in a format prescribed by the corporation and include, for each take-out offer:
 - The amount of the estimated premium;
 - A description of the coverage; and

¹⁷⁴ Sections 627.351.(6)(b)3.i.(I) and 627.351.(6)(c)21., F.S. *See also*, Citizens' Assessments.

¹⁷⁵ Section 627.351.(6)(b)3.a., F.S.

¹⁷⁶ Section 627.351(6)(b)3.d., F.S.

¹⁷⁷ Section 627.351(6)(q)3.a., F.S.

¹⁷⁸ Chapter 2016-229, Laws of Fla.

¹⁷⁹ Such requests from insurers must include a description of the coverage offered and an estimated premium and must be submitted to the corporation in a form and manner prescribed by the corporation.

- A comparison of the estimated premium and coverage offered by the insurer to the estimated premium and coverage provided by the corporation.

Flood Insurance

The Flood Disaster Protection Act of 1973 (FDPA) prohibits lending institutions from making, increasing, extending, or renewing any loan secured by improved real estate or a mobile home located in special flood hazard areas and in which flood insurance has been made available under federal law unless the building or mobile home is covered by flood insurance in an amount equal to the outstanding principal balance of the loan or the maximum limit of coverage available.¹⁸⁰

Under Florida law, an authorized insurer may issue a policy for flood insurance coverage,¹⁸¹ however homeowners' insurance policies typically do not cover flood losses.¹⁸² Although private flood insurance may be obtained by endorsement or a separate policy, this requirement is generally satisfied with coverage obtained through the National Flood Insurance Program (NFIP) which is managed by Federal Emergency Management Agency (FEMA).¹⁸³ The NFIP offers flood insurance coverage for buildings and content which must be purchased separately and have separate deductibles. For residential property, the maximum coverage amount is \$250,000 for the building and \$100,000 for the content and, for commercial property, the maximum coverage for building and building content is \$500,000 each.¹⁸⁴

Citizens does not require proof of flood insurance as a condition of coverage provided the insured or applicant executes an the OIR approved form affirming that flood insurance is not provided by Citizens and that if flood insurance is not secured by the applicant or insured in addition to coverage by Citizens, the risk will not be covered for flood damage.¹⁸⁵ A Citizens' policyholder that elects not to purchase flood insurance and executes the form has the burden of proving that any claim for water damage was not caused by flooding.¹⁸⁶

According to U.S. Census Bureau "2020 Population and Housing State Data", there are 9,865,350 houses in Florida with only 1,714,008 NFIP active policies or approximately 17.37% homes insured for flood damage.¹⁸⁷ Only about 18.5% of homeowners who were ordered to evacuate the evening before Hurricane Ian made landfall had a flood insurance policy with

¹⁸⁰ 42 U.S.C. s. 4012a.(b). See The FEMA, *FEMA Flood Map Service Center: Welcome!*, [FEMA Flood Map Service Center | Search All Products](#).

¹⁸¹ Section 627.715(1), F.S.

¹⁸² Disaster Rally, *National Flood Insurance Program – How to Be Eligible*, [National Flood Insurance Program - How to Be Eligible \(disasterrally.com\)](#) (last visited Dec. 5, 2022).

¹⁸³ The Office of the Comptroller of the Currency, *Flood Disaster Protection Act: Guidance Regarding Lapse and Extension of FEMA's Authority to Issue Flood Insurance Contracts*, Jun. 9, 2010, [Flood Disaster Protection Act: Guidance Regarding Lapse and Extension of FEMA's Authority to Issue Flood Insurance Contracts | OCC \(ots.gov\)](#) (last visited Dec. 6, 2022).

¹⁸⁴ The FEMA, *National Flood Insurance Program, Understanding Your Policy Terms*, [Flood Insurance Coverage, Deductibles Explained \(floodsmart.gov\)](#) (last visited Dec. 5, 2022).

¹⁸⁵ Section 627.351(6)(aa), F.S.

¹⁸⁶ *Id.*

¹⁸⁷ Howard, P., Policygenius, *Flood Insurance Statistics in 2022*, Jul. 1, 2022, [Flood Insurance Statistics \[UPDATED for 2022\] - Policygenius](#) (last visited Dec. 5, 2022) (noting that data was analyzed to calculate the percentage of homes in each state with flood insurance policies with NFIP).

NFIP.¹⁸⁸ Even though the vast majority of flood insurance coverage is secured through the NFIP, the Florida private flood insurance market has grown more than 300% from 2017-2020.¹⁸⁹ Notwithstanding this growth, the OIR has collected data on an ad hoc basis that, as of Jun. 1, 2020, there were only 89,505 primary personal residential private flood policies in-force.¹⁹⁰

Flood Notice

An insurer that issues or renews a homeowner's insurance policy without flood coverage must include the following statement with the policy documents:

“FLOOD INSURANCE: YOU MAY ALSO NEED TO CONSIDER THE PURCHASE OF FLOOD INSURANCE. YOUR HOMEOWNER’S INSURANCE POLICY DOES NOT INCLUDE COVERAGE FOR DAMAGE RESULTING FROM FLOOD EVEN IF HURRICANE WINDS AND RAIN CAUSED THE FLOOD TO OCCUR. WITHOUT SEPARATE FLOOD INSURANCE COVERAGE, YOU MAY HAVE UNCOVERED LOSSES CAUSED BY FLOOD. PLEASE DISCUSS THE NEED TO PURCHASE SEPARATE FLOOD INSURANCE COVERAGE WITH YOUR INSURANCE AGENT.”

Arbitration

Arbitration Generally

Arbitration is an out-of-court alternative dispute resolution process whereby the parties to an agreement submit the dispute for resolution to one or more impartial persons for a final and binding decision.¹⁹¹ Arbitration is intended to be a speedy and economical alternative to court litigation, which is often slow, time-consuming, and expensive.¹⁹² Parties to arbitration may give up safeguards that litigants in court proceedings enjoy, such as a jury trial and the rules of evidence.¹⁹³

Federal Arbitration Act

Congress enacted the Federal Arbitration Act (FAA) in 1925 to establish, in part, the enforceability of pre-dispute arbitration agreements involving interstate commerce.¹⁹⁴ The United States Supreme Court has recognized that with the passage of the FAA, Congress expressed intent for courts to enforce arbitration agreements and to place these agreements on an

¹⁸⁸ McCausland, P., MSN, *Hurricane Ian Exposed a Flood Insurance Nightmare for Homeowners in Florida*, Oct. 14, 2022, [Hurricane Ian exposed a flood insurance nightmare for homeowners in Florida \(msn.com\)](https://www.msn.com/en-us/news/national/hurricane-ian-exposed-a-flood-insurance-nightmare-for-homeowners-in-florida) (last visited Dec. 5, 2022).

¹⁸⁹ Marante, S., electronic mail to Jacqueline M. Moody, *Re: Private flood insurance*, Dec. 7, 2022 (on file with the Senate Committee on Banking & Insurance) (noting that the OIR has received notice from two insurers that they may no longer offer private flood insurance).

¹⁹⁰ *Id.*

¹⁹¹ The American Arbitration Association, *Arbitration*, <https://www.adr.org/Arbitration> (last visited Dec. 5, 2022).

¹⁹² *ManorCare Health Services, Inc. v. Stiehl*, 22 So.3d 96, 105 (Judge Altenbernd concurring) (Fla. 2d DCA 2009).

¹⁹³ *United Ins. Co. of America v. Office of Ins. Regulation*, 985 So.2d 665, 668 (Fla. 1st DCA 2008).

¹⁹⁴ See 9 U.S.C.A. ss. 1-16.

equal footing with other contracts.¹⁹⁵ The FAA evidences a federal policy that favors and encourages the use of arbitration to resolve disputes.

Florida Arbitration Code

Florida traditionally has favored arbitration. In 1957, the Legislature enacted the Florida Arbitration Code¹⁹⁶ (FAC), which prescribed a framework governing the rights and procedures under arbitration agreements, including the enforceability of arbitration agreements.¹⁹⁷ The FAC was subsequently amended in 1967,¹⁹⁸ and remained largely unchanged until 2013. The FAC governs the arbitration process in its entirety, including, but not limited to the scope and enforceability of arbitration agreements, appointment of arbitrators, arbitration hearing process and procedure, entry and enforcement of arbitration awards, and appeals.

Revised Florida Arbitration Code

During the 2013 Legislative Session, the Legislature passed CS/SB 530 that substantially revised the then existing arbitration code and replaced it with the “Revised Florida Arbitration Code.”¹⁹⁹ The Revised Code is substantially based on the 2000 revision of the Uniform Arbitration Act by the National Conference of Commissioners on Uniform State Laws.²⁰⁰

Among its various provisions, the Revised Code authorizes an arbitrator to award provisional remedies before a final award is made to protect the effectiveness of the arbitration proceeding.²⁰¹ An arbitrator may award exemplary relief and other remedies that the arbitrator considers just and appropriate.²⁰² A party awarded a provisional remedy or final award may enforce the award by having it confirmed by a court.²⁰³

The revised arbitration code generally allows parties to an arbitration agreement to waive or vary the effect of the code’s requirements. However, the code lists a number of provisions that the parties to an agreement may not waive until a controversy arises and provisions that may not be waived at all.²⁰⁴ Parties may not waive the right to judicial relief, the right to a provisional remedy, jurisdiction of the courts, the right to appeal, the right to notice, the right to disclosure, or the right to an attorney, before a controversy arises. Parties may not waive other requirements at any time which would fundamentally undermine the arbitration agreement.

¹⁹⁵ *Allied-Bruce Terminix Cos, Inc. v. Dobson*, 513 U.S. 265, 270-271 (1995).

¹⁹⁶ Chapter 682, F.S.

¹⁹⁷ Chapter 57-402, Laws of Fla.

¹⁹⁸ Chapter 67-254, Laws of Fla.

¹⁹⁹ Chapter 2013-232, Laws of Fla.

²⁰⁰ <https://www.uniformlaws.org/committees/community-home/librarydocuments?LibraryKey=ba0e5b1d-67c0-4292-95e4-7a4157c6d2e1> (last visited Dec. 5, 2022).

²⁰¹ Section 682.031, F.S.

²⁰² Section 682.11, F.S.

²⁰³ Sections 682.081 and 682.11, F.S.

²⁰⁴ Section 682.013, F.S.

Regulation of Insurance in Florida

The OIR regulates specified insurance products, insurers and other risk bearing entities in Florida.²⁰⁵ As part of their regulatory oversight, the OIR may suspend or revoke an insurer's certificate of authority under certain conditions.²⁰⁶ The OIR is responsible for examining the affairs, transactions, accounts, records, and assets of each insurer that holds a certificate of authority to transact insurance business in Florida.²⁰⁷ As part of the examination process, all persons being examined must make available to the OIR the accounts, records, documents, files, information, assets, and matters in their possession or control that relate to the subject of the examination.²⁰⁸ The OIR is also authorized to conduct market conduct examinations to determine compliance with applicable provisions of the Insurance Code.²⁰⁹

Each insurer must file with the OIR their basic insurance policy or annuity contract forms and any application form that is to be made a part of the policy or contract.²¹⁰ These forms may not be delivered or issued for delivery unless the form has been filed with the office.²¹¹

Insurer Reporting of Property Insurance Data and other Information to the Office of Insurance Regulation

All insurers with a Florida certificate of authority to transact insurance business must file quarterly and annual reports with the OIR containing various financial data, including audited financial statements, actuarial opinions, and certain claims data.²¹² Each year, insurers must file an annual statement covering the preceding calendar year on or before March 1. Quarterly statements covering each period ending on March 31, June 30, and September 30 must be filed within 45 days after each such date.²¹³

In 2021, the Legislature enacted legislation²¹⁴ to assist the OIR and the Legislature in identifying current and emerging property insurance litigation trends that are cost drivers adversely affecting insurance rates. As of January 1, 2022, each insurer or insurer group doing business in Florida must provide specific pieces of data regarding litigation of personal and commercial residential property insurance claims to the OIR on an annual basis.²¹⁵ This data includes, but is not limited to, the following information on a per claim basis:

- Type of policy;
- Date, location, and type of loss;
- Name and type of vendors utilized for mitigation, repair, or replacement;

²⁰⁵ Section 20.121(3)(a), F.S. The Financial Services Commission, composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture, serves as agency head of the Office of Insurance Regulation for purposes of rulemaking. Further, the Financial Services Commission appoints the commissioner of the Office of Insurance Regulation.

²⁰⁶ Section 624.418, F.S.

²⁰⁷ Section 624.316(1)(a), F.S.

²⁰⁸ Section 624.318(2), F.S.

²⁰⁹ Section 624.3161, F.S.

²¹⁰ Section 627.410, F.S.

²¹¹ *Id.*

²¹² Section 624.424, F.S.

²¹³ Section 624.424(1)(a), F.S.

²¹⁴ Chapter 2021-77, Laws of Fla.

²¹⁵ Section 624.424(11), F.S.

- Dates on which the claim was reported to the insurer, closed by the insurer, and reopened by the insurer;
- Dates on which a supplemental claim was made;
- Whether the claimant had a public adjuster or an attorney;
- Total amounts that the insurer paid for indemnity, loss adjustment expenses,²¹⁶ and insured's attorney fees;
- Whether the insured's attorney requested that a contingency risk multiplier (CRM)²¹⁷ be applied to the attorney fees calculation and, if so, what CRM was applied.

Section 624.424(10), F.S., requires insurers and insurer groups doing business in Florida to file quarterly reports with the OIR. These reports, also known as QUASR reports, must include the following information for each county in Florida, compiled on a quarterly basis:

- The total number of policies in force at the end of each month.
- The total number of policies canceled.
- The total number of policies nonrenewed.
- The number of policies canceled due to hurricane risk.
- The number of policies nonrenewed due to hurricane risk.
- The number of new policies written.
- The total dollar value of structure exposure under policies that include wind coverage.
- The number of policies that exclude wind coverage.

The OIR must make publicly available data detailing the number of policies, amount of premium, number of cancellations, and other data for each property insurer on a statewide basis.²¹⁸ The information must be published on the OIR website within one month after each quarterly and annual filing.²¹⁹ This information is not a trade secret as defined in s. 688.002(4), F.S., or s. 812.081, F.S., and is not subject to the public records exemption for trade secrets provided in s. 119.0715, F.S.²²⁰

Office of Insurance Regulation Insurer Stability Unit

Section 627.7154, F.S., establishes a property insurer stability unit (unit) within the OIR. The purpose of the unit is to detect and prevent insurer insolvencies in the homeowners' and condominium unit owners' insurance market. Specifically, the unit is to identify significant concerns regarding insurer compliance with the insurance code. The unit must, at minimum:

- Conduct target market exams when there is reason to believe that an insurer's claims practices, rate requirements, investment activities, or financial statements suggest said insurer may be in an unsound financial condition.
- Monitor closely all risk-based capital reports, own-risked solvency assessments, reinsurance agreements, and financial statements filed by insurers.

²¹⁶ Loss adjustment expenses are the costs associated with investigating and adjusting losses or insurance claims. IRMI, <https://www.irmi.com/term/insurance-definitions/loss-adjustment-expense> (last visited Dec. 8, 2022).

²¹⁷ A CRM is a multiplier applied to attorney fees that reflects the risk of attorneys accepting, on a contingency fee basis, cases that may be difficult to win. *See e.g., Joyce v. Federated Nat'l Ins. Co.*, 228 So.3d 1122 (Fla. 2017).

²¹⁸ Section 624.424(10)(b), F.S.

²¹⁹ *Id.*

²²⁰ *Id.*

- Have primary responsibility, coordinating with Florida Commission on Hurricane Loss Projection Methodology, to conduct annual catastrophe stress tests of all domestic insurers and insurers that are commercially domiciled in this state.
- Update required wind mitigation credits.
- Review the causes of insolvency and business practices of insurers that have been referred to the Division of Rehabilitation and Liquidation of the DFS, and make recommendations to prevent future occurrences of such insurers.
- File biannual reports on the status of the homeowners' and condominium unit owners' insurance market to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of the Senate, the Minority Leader of the House of Representatives, and the chairs of the legislative committees with jurisdiction over matters of insurance.²²¹

The section also specifies events that trigger a referral to the insurer stability unit. Expenses for the unit are to be paid from the Insurance Regulatory Trust Fund, except that, if the unit recommends that a market conduct examination or targeted market examination be conducted, the reasonable cost of the examination shall be paid by the person examined.²²²

Market Conduct Examinations

The OIR is authorized to perform a market conduct examination of, among other entities, any authorized insurer.²²³ The purpose of the examination is to determine the entity's compliance with Florida law.²²⁴ The costs of the examination are to be paid by the subject entity.²²⁵

If the examination reveals that the "insurer has exhibited a pattern or practice of willful violations of an unfair insurance trade practice related to claims-handling which caused harm to policyholders," the OIR may order the insurer to file its claims-handling practices and procedures with the OIR for review and inspection.²²⁶ The practices and procedures are to be held by the OIR for 36 months and are considered public records, not trade secrets, during the 36-month period.²²⁷ The term, "claims-handling practices and procedures," is defined as "any policies, guidelines, rules, protocols, standard operating procedures, instructions, or directives that govern or guide how and the manner in which an insured's claims for benefits under any policy will be processed."²²⁸

Continuation of Coverage

Chapter 631, F.S., provides direction for the handling of insurers that have become insolvent. Part I of the Chapter provides specifically for the rehabilitation and liquidation of insolvent

²²¹ Section 627.7154(3), F.S.

²²² Section 627.7154(4), F.S.

²²³ Section 624.3161(1), F.S.

²²⁴ *Id.*

²²⁵ Section 624.3161(4), F.S.

²²⁶ Section 624.3161(6), F.S.

²²⁷ *Id.*

²²⁸ *Id.*

insurers. Section 631.252(1), F.S., requires policies of the insolvent insurer be canceled upon the earliest of:

- (a) The date of entry of the liquidation or, if the court so provides in its order, the expiration of 30 days from the date of entry of the liquidation order;
- (b) The normal expiration of the policy or contract coverage;
- (c) The replacement of the coverage by the insured, or the replacement of the policy or contract of coverage, with a policy or contract acceptable to the insured by the receiver with another insurer; or
- (d) The termination of the coverage by the insured.

Other than for certain life or health insurance coverages, claims made during the 30-day period under paragraph (1)(a) are handled as if the claim was made prior to the date of the insurer's liquidation.²²⁹ The 30-day coverage period may not be extended.²³⁰

III. Effect of Proposed Changes:

Florida Optional Reinsurance Assistance Program

Section 1 of the bill creates s. 215.5552, F.S., establishing the Florida Optional Reinsurance Assistance (FORA) Program for the 2023 hurricane season within the State Board of Administration (board). The bill authorizes cumulative transfers not to exceed \$1 billion from the General Revenue Fund to the program for the 2022-23 contract term beginning June 1, 2023. The FORA program statute expires June 30, 2026, if no general revenue funds have been transferred to fund the FORA program. If such funds are transferred, the statute expires July 1, 2030, and all unencumbered FORA program funds must be transferred back to the General Revenue Fund. The bill gives the board rulemaking authority, including emergency rulemaking authority, to adopt rules as necessary to implement the FORA program.

The bill authorizes the purchase of multiple reimbursement layers of reinsurance for hurricane losses directly below the mandatory layer of the Florida Hurricane Catastrophe Fund (FHCF). The FHCF mandatory retention is expected to be approximately \$9 billion for the 2022-2023 contract year. The FORA program provides potentially four optional layers below the FHCF retention prior to the third event dropdown of the FHCF retention set forth in s. 215.555(2)(e). The availability of the four potential layers will be based on the monies available – the \$1 billion dollar appropriation, plus the premiums collected by the FORA program participants. The Layers will be determined by the board, but are set prior to insurer selections at:

- The Layer 1 limit is \$1 billion.
- The Layer 2 limit is \$1 billion.
- The Layer 3 limit is \$2 billion divided by the RAP qualification ratio minus \$2 billion.
- The Layer 4 limit is \$1 billion minus the total FORA program industry limit selected for FORA program layers 1, 2 and 3, plus the total FORA program premium collected for FORA program layers 1, 2, and 3.

²²⁹ Section 631.252(2), F.S.

²³⁰ Section 631.252(3), F.S.

Participation in the FORA program is optional, but is available to insurers that participate in FHCF as of November 30, 2022. Qualifying Reinsurance to Assist Policyholders (RAP) insurers that are required to defer participation in RAP to the 2023-2024 contract year are excluded from purchasing FORA program layers 1 through 3. Qualifying RAP insurers required to participate in the 2022-2023 contract year may select FORA program layers 1 through 3. All FORA program eligible insurers may select FORA layer 4. Layers 1 through 4 cannot be purchased separately. All FORA program eligible insurers may purchase Layer 4. If a FORA program insurer chooses to purchase layers 2, 3, or 4, it must purchase all layers sequentially up to the selected layer. Citizens Property Insurance Corporation is excluded from participating in FORA.

FORA Program Reimbursement Contracts

The FORA program coverage reimburses 100 percent of each insurer's covered losses up to each individual insurer's limit of coverage for the two hurricanes causing the largest losses for that insurer during the contract year. A FORA program reimbursement contract effective June 1, 2023, must be executed by April 15, 2023, for layers 1 through 3, and by May 30, 2023, for layer 4. The contract must:

- Contain a promise to reimburse the FORA program insurer for 100 percent of its losses from each covered event in excess of the lowest selected FORA program layer's retention. The sum of the FORA program insurer's covered losses may not exceed the FORA insurer's combined selected FORA program layer limits.
- Provide that reimbursement amounts may not be reduced by reinsurance payable to the insurer from other sources.

FORA Premiums

The FORA program premiums will be:

- FORA layer 1 premium is 50 percent Rate on Line multiplied by the FORA insurer's FORA layer 1 limit.
- FORA layer 2 premium is 55 percent Rate on Line multiplied by the FORA insurer's FORA layer 2 limit.
- FORA layer 3 premium is 60 percent Rate on Line multiplied by the FORA insurer's FORA layer 3 limit.
- FORA layer 4 premium is 65 percent Rate on Line multiplied by the FORA insurer's FORA layer 4 limit.

Initial FORA premiums will be based on the 2023 FHCF projected industry retention, FHCF retention multiples, 2022 RAP Qualification Ratio and insurers' 2022 FHCF premiums. Final FORA premiums will be adjusted after December 31, 2023, based on December 31, 2023, FHCF premiums, FHCF industry retention, the 2023 RAP qualification ratio and insurers' 2023 FHCF premiums. Failure to pay the initial FORA premium in full by July 1, 2023, will result in disqualification as a FORA insurer. The final FORA premium will be due no later than March 1, 2024.

The FORA program is funded through a combination of insurer premiums collected for FORA coverage and the authorization of the transfer of up to \$1 billion in general revenue funds.

Bad Faith Failure to Settle Actions against Property Insurers

Section 2 amends s. 624.1551, F.S., to provide that bad faith litigation for failure to settle a property insurance claim may not be filed until after the insured has established through adverse adjudication by a court that the insurer breached the insurance contract and a final judgment or decree has been rendered against the insurer. The bill provides that acceptance of an offer of judgment or the payment of an appraisal award does not constitute an adverse adjudication. This is intended to have the effect of prohibiting a bad faith failure to settle action solely on the basis of the policyholder's successful recovery of additional claim proceeds through the insurance contract's appraisal process or acceptance of an offer of judgment. The bill also provides that the difference between an insurer's appraiser's final estimate and the appraisal award may be evidence of bad faith but is not considered an adverse adjudication and does not on its own give rise to a cause of action for bad faith.

Regulation of Insurance in Florida

Section 3 amends s. 624.3161, F.S., to authorize the Office of Insurance Regulation (OIR) to subject any authorized insurer to a market conduct examination after a hurricane if the insurer:

- Is among the top 20 percent of insurers based upon a calculation of the ratio of hurricane-related property insurance claims filed to the number of property insurance policies in force;
- Is among the top 20 percent of insurers based upon a calculation of the ratio of consumer complaints made to DFS to hurricane-related claims;
- Has made significant payments to its managing general agent since the hurricane; or
- Is identified by OIR as necessitating a market conduct exam for any other reason.

The relevant criteria under ss. 624.3161 and s. 624.316, F.S.²³¹, are to be applied to the market conduct examination. The market conduct examination, if any, must be started within 18 months after the landfall of the related hurricane. The insurer's managing general agent must be included in the market conduct examination as if it were the insurer.

Section 4 amends s. 624.418(2), F.S., relating to the OIR's authority to suspend or revoke an insurer's certificate of authority. The bill adds an additional condition for the OIR to use this authority where the insurer engages in a general business practice of, without just cause, compelling insureds to participate in appraisal in order for the insured to secure the full payment or settlement of a property insurance claims. The OIR may, instead of suspending or revoking the insurer's certificate of authority, choose to impose administrative fines and restitution or seek to reach a consent order with the insurer.

Section 5 amends s. 624.424(10)(a), F.S., to add additional elements to the mandated insurer's quarterly reports filed with the OIR to include the number of claims opened, closed, and pending each month; the number of claims where the insurer invoked any form of alternative dispute resolution (ADR) and which form of ADR was used.

²³¹ This section is entitled "Examination of Insurers."

Section 12 amends s. 627.410(3), F.S., relating to the required filing of forms by insurers with the OIR. The bill adds the authority of the OIR to, based on a finding from a market conduct examination that the insurer had exhibited a pattern or practice of one or more willful unfair insurance trade practice violations with regard to its use of appraisal, to withdraw OIR approval of the forms and, in addition to any other authorized regulatory action, issue an order that prohibits the insurer from invoking appraisal for up to two years.

Section 22 amends s. 627.7154(3)(f), F.S., relating to the Property Insurer Stability Unit (unit) within the OIR. The bill adds an element to the unit's required semiannual report on the status of the homeowners' and condominium homeowners' insurance market to include the name of any insurer, as a result of a market conduct examination, found to have exhibited a pattern or practice of one or more willful unfair insurance trade practice violations with regard to its use of appraisal compelling insureds to participate in appraisal in order for the insured to secure the full payment or settlement of a property insurance claims, in addition to the findings of the examination. The bill requires the OIR to publish this same information on its internet webpage.

Attorney Fees Awards in Property Insurance Litigation

Section 6 amends s. 626.9373, F.S., and **section 13** amends s. 627.428, F.S., to provide that the one-way attorney fee provisions of each statute are not applicable in a suit arising under a residential or commercial property insurance policy issued by an authorized insurer. Section 627.428 applies to authorized insurers, while s. 626.9373, F.S., applies to surplus lines insurers.

Section 17 of the bill also deletes the attorney fee provisions of s. 627.70152(8), F.S., currently used to award fees under s. 627.428, F.S., and s. 626.9373, F.S. The deletion of subsection (8) repeals language limiting fees to awards under that subsection and court sanctions, which has the effect of reinstating the offer of judgment process in s. 768.79, F.S., for property insurance claims. Technical changes are also made to this section.

Section 24 amends s. 768.79, F.S., regarding offers of judgment, to allow a property insurer to, for a breach of contract action, make a joint offer of settlement that is conditioned on the mutual acceptance of all joint offerees. This is designed to prevent a scenario where, for instance, a husband and wife both jointly own property, and an offer of judgment is made to each spouse that results in one spouse accepting the offer but the other declining and going on to bring a lawsuit.

Section 19 amends s. 627.7074, F.S., to repeal language that awards an attorney fee to an insured that prevails in neutral evaluation. The bill also makes conforming change related to the elimination of attorney fee awards under s. 627.428, F.S., in property insurance litigation.

Unfair Insurance Claim Settlement Practices

Section 8 amends s. 626.9541(1)(i), F.S., of the Unfair Insurance Trade Practices Act to conform changes made by the section 15 of the bill to s. 627.70131, F.S., which provides timelines regarding property insurance claim adjustment and claim payments. Specifically, the bill reduces the requirement to pay undisputed amounts of benefits from 90 days to 60 days. The bill revises the factors that excuse an insurer's failure to perform to "factors beyond the control of the insurer

as defined in s. 627.70131(5), F.S.” rather than acts of God, the impossibility of performance, or the other claimant actions specified under current law.

Prompt Pay Laws for Property Insurance

Section 15 amends s. 627.70131, F.S., which sets forth requirements for insurers to timely communicate with claimants, timely investigate the claim, and timely pay or deny the claim. The bill requires insurers to more quickly communicate with claimants, adjust the claim, and pay or deny the claim by:

- Reducing the time for insurers to acknowledge a claim or respond to communication from 14 days to 7 days.
- Reducing the time for insurers to begin an investigation, if reasonably necessary, from 14 days to 7 days after the proof-of-loss statement is received.
- Reducing the time for insurers to conduct a physical inspection from 45 days to 30 days and applies this provision to hurricane claims.
- Requiring insurers to provide to policyholders a copy of any adjuster’s report estimating the loss within 7 days after it is created.
- Reducing the time for insurers to pay or deny a claim, or a portion of the claim, from 90 days to 60 days, which may be extended 30 days (for payment to be made within a total of 90 days) by an the OIR order finding the delay is caused by factors beyond the control of the insurer.

The bill allows the OIR to extend the deadlines that are required of insurers under the prompt pay laws for up to 30 additional days if the failure is caused by “factors beyond the control of the insurer,” which is newly defined in s. 627.70131(5)(a), F.S., as any of the following events that is the basis for the OIR issuing an order finding that such event renders all or specified residential property insurers reasonably unable to meet the requirements of this section in specified locations, and ordering that such insurer or insurers may have additional time as specified by the office to comply with the requirements of this section:

- A state of emergency declared by the Governor under s. 252.36,
- A breach of security that must be reported under s. 501.171(3), or
- An information technology issue.

The office may not extend the period for payment or denial of a claim for more than 30 additional days.

The requirements of the section also do not apply if actions by the policyholder or the policyholder’s representative which constitute fraud, lack of cooperation, or intentional misrepresentation regarding the claim for which benefits are owed, reasonably prevent the insurer from complying with any requirement of this section.

Section 627.70131(1)(d), F.S., is created to authorize insurers to use electronic methods to investigate the loss that is reported in a claim. Methods that may be used include, but are not limited to:

- Electronic photographs;
- Video recordings of the loss;

- Video conferencing between the adjuster and the policyholder which includes video recording of the loss; and
- Video recordings or photographs of the loss using a drone, driverless vehicle, or other machine that can move independently or through remote control.

An insurer may allow the policyholder to use such electronic methods to assist in the investigation. An insurer may void the insurance policy if the policyholder or any other person at the direction of the policyholder, with intent to injure, defraud, or deceive any insurer, uses electronic methods to commit insurance fraud by providing false, incomplete, or misleading information concerning any material fact to a claim. An insurer may assign a licensed adjuster to physically inspect the property even if electronic methods are used to investigate the loss.

Section 627.70131(4)(b), F.S., is created to require an insurer to maintain the following records, including dates:

- Any claim-related communication made between the insurer and the policyholder or the policyholder's representative;
- The insurer's receipt of the policyholder's proof-of-loss statement;
- Any claim-related request for information made by the insurer to the policyholder or the policyholder's representative;
- Any claim-related inspection of the property made by the insurer;
- Any detailed estimate of the amount of the loss generated by the insurer's adjuster;
- The beginning and end of any tolling period; and
- The insurer's payment or denial of the claim.

The bill creates section 627.70131(8), F.S., which tolls the requirements of the section as follows:

- During the pendency of any mediation proceeding or any alternative dispute resolution provided for in the insurance contract. The tolling period ends upon completion of the proceeding.
- Upon the failure of a policyholder or a policyholder's representative to provide material claims information requested by the insurer within 10 days after the request was received until the insurer receives such information. This tolling period applies only to requests sent by the insurer to the policyholder or a policyholder's representative at least 15 days before the insurer is required to make a payment or deny the claim.

Citizens Property Insurance Corporation

Section 8 amends s. 627.351, F.S., with the effect of changing the structure of Citizens, eligibility criteria, and criteria for setting rates.

Citizens' Accounts

Effective July 1, 2023, upon eliminating all outstanding financing obligations, Citizens may consolidate the personal lines account, commercial lines account, and coastal account into one account, known as the Citizens account, for all of its revenues, assets, liabilities, losses, and expenses. A single account will allow Citizens to access its entire surplus to pay claims. If

established, the Citizens account is authorized to provide coverage to the same extent each of the three separate accounts may provide coverage under current law.

Citizens is not authorized to levy regular assessments if the three separate accounts are consolidated into the Citizens account, but any outstanding balance owed for regular assessments that are levied before the Citizens account is established remain payable to Citizens. Citizens must, however, levy the following assessments upon determination that the Citizens account has a projected deficit:

- A surcharge of up to 15 percent against all of Citizens' policyholders; and
- For any remaining projected deficit, an emergency assessment on all insurance policyholders (except medical malpractice and workers' compensation) which may not exceed the greater of 10 percent of the amount needed to cover the deficit, plus interest, fees, commissions, required reserves, and other costs associated with financing the original deficit, or 10 percent of the aggregate statewide direct written premium for subject lines of business and the Citizens account for the prior year, plus interest, fees, commissions, required reserves, and other costs associated with financing the deficit.

Provisions under current law [s. 627.351(6)(b)2. and (b)3., F.S.,] regarding coverage and any deficits incurred in the three separate accounts will be replaced with new and substantially similar provisions regarding coverage and any deficits incurred in the Citizens account [under s. 627.351(6)(b)4. and 5., F.S.].

The bill also revises the acknowledgment that an applicant for Citizens coverage will have to sign after the single Citizens account is established.

Eligibility

The bill increases the eligibility threshold for renewal coverage from Citizens. Citizens renewal policyholders for personal and commercial lines residential risks, and take-out offers, are eligible for coverage if the premium for coverage from the authorized insurer is more than 20 percent greater than the renewal premium for comparable coverage from Citizens, including any surcharges or assessments. This increased eligibility threshold applies to renewal policies for personal lines residential risks on or after April 1, 2023. A policyholder that is removed from Citizens through an assumption agreement does not remain eligible for coverage from Citizens beyond the end of the policy term, but remains on Citizens' policy forms through the end of the policy term.

Citizens' eligibility threshold for new commercial lines residential risk is increased to make such applicants ineligible for coverage unless the premium from the authorized insurer is more than 20 percent, as opposed to more than 15 percent, of the premium for comparable coverage from Citizens. This change is consistent with the eligibility threshold for new personal lines residential risk coverage.

The bill removes language suggesting that the notice from Citizens to policyholders and the agent of record regarding take-out offers should include notice that the policyholder has an option to accept or reject the offer and remain with Citizens.

Rates

Section 8 maintains Citizens' requirement for its rates to be actuarially sound and adds a requirement that the rates not be competitive with the approved rates charged in the admitted market. The bill notes that this provision is added to ensure that Citizens functions as a residual market mechanism and provides insurance only when insurance cannot be procured in the voluntary market.

The bill removes the glidepath rate limitations for any new or renewal personal lines policy for non-primary residences written on or after November 1, 2023, and sets the rate to no more than 50% above, but not less than, the established rate for Citizens which was in effect 1 year before the date of the application. The term "primary residence" is defined as the dwelling that is the policyholder's primary home or is a rental property that is the primary home of the tenant and which the policyholder or tenant occupies for more than 9 months of each year.

Flood Insurance

The bill requires an applicant or insured of Citizens for personal lines residential coverage (for example, homeowner's coverage) to obtain flood insurance as a condition of coverage which must be at least equivalent to the coverage available from the National Flood Insurance Program or certain private market flood products authorized by s. 627.715(1), F.S., that provide coverage that is not below NFIP coverage. The limits for such coverage must be the lesser of the policy limit on the Citizens policy or the coverage limits under NFIP flood coverage. The applicant or insured must execute a form that is approved by the OIR which affirms that flood insurance is not provided by Citizens, and that the risk will not be eligible for coverage by Citizens if flood insurance is not secured. Policyholders' requirement to obtain flood insurance must be implemented as follows:

- Personal lines residential Citizens policyholders whose property is located within special hazard flood zones defined by the FEMA, must have flood coverage by:
 - April 1, 2023 for Citizens' new policies.
 - July 1, 2023 for Citizens' renewal policies.
- For all other risks, the requirement to flood insurance must be implemented for specified Citizens' policyholders as follows:
 - March 1, 2024, for policies insuring property to a limit of \$600,000 or more.
 - March 1, 2025, for policies insuring property to a limit of at least \$500,000 but less than \$600,000.
 - March 1, 2026, for policies insuring property to a limit of at least \$400,000 but less than \$500,000.
 - March 1, 2027, for all other policyholders.

Conforming Changes

Section 9 amends s. 627.351(6)(s), F.S., to provide a conforming change to the elimination of attorney fee awards under s. 627.428, F.S., for property insurance litigation.

Section 10 amends s. 627.3511, F.S. to conform cross references.

Section 11 of the bill amends s. 627.3518, F.S., the Citizens' clearinghouse statute to incorporate the revisions made in the bill to the Citizens eligibility standard. The bill repeals language which that requires an applicant for coverage who was declared ineligible for coverage at renewal by Citizens in the previous 36 months be considered a renewal under the Citizens' clearinghouse statute if the authorized insurer continues to insure the applicant and increased the rate higher than allowed under Citizens' eligibility standard.

Flood Notice

Section 14 amends s. 627.7011, F.S., to require that the mandatory flood insurance notice be included on the declarations page, rather than with the policy documents, at initial issuance and every renewal. The bill also revises the notice to specify that policyholders' flood losses will be uncovered if they do not purchase flood insurance, and to state that the policyholder should consider purchasing flood insurance.

Claim Filing Deadline

Section 16 amends s. 627.70132, F.S., to reduce the deadline for policyholders to report a property insurance claim under the policy from 2 years to 1 year for a new or reopened claim, and from 3 years to 18 months for a supplemental claim.

Mandatory Binding Arbitration Provisions in Property Insurance Contracts

Section 18 creates s. 627.70154, F.S., providing conditions whereby an insurer may include mandatory binding arbitration in its policies. The insurer may not require a policyholder to participate in mandatory binding arbitration unless:

- The mandatory binding arbitration requirements are contained in a separate endorsement attached to the property insurance policy;
- The premium for the policy includes an actuarially sound credit or premium discount for the mandatory binding arbitration endorsement;
- The policyholder signs a form accepting mandatory binding arbitration and which form must notify the policyholder of the rights given up in exchange for the credit or premium discount, including, but not limited to, the right to a trial by jury; and
- The endorsement requires that the insurer will comply with the mediation provisions in s. 627.7015, F.S., before the initiation of arbitration.

Homeowner Claim Bill of Rights

Section 20 amends s. 627.7142, F.S., the Homeowner Claim Bill of Rights to conform to the bill's amendments to s. 627.70131, F.S.

Assignment of Benefits

Section 21 amends s. 627.7152, F.S., to prohibit the assignment, in whole or in part, of any post-loss insurance benefit under any residential property insurance policy or under any commercial property insurance policy issued on or after January 1, 2023. The bill specifies that assignment agreements under a residential property insurance policy or

under a commercial property insurance policy are only valid on policies issued on or after July 1, 2019, and before January 1, 2023.

Continuation of Coverage

Section 23 amends s. 631.252(3), F.S., to allow the OIR to extend the 30-day coverage period for policies of insolvent insurers by an additional 15 days if the OIR reasonably believes that market conditions are such that the policies cannot be placed with an authorized insurer within the 30-day period.

Appropriation

Section 25 provides that for the 2022-2023 fiscal year, the sum of \$1,757,982 in recurring funds is appropriated from the Insurance Regulatory Trust Fund to the Office of Insurance Regulation with associated salary rate of \$844,464. From these funds, \$1,356,615 is appropriated in the Salaries and Benefits appropriation category, \$400,000 is appropriated in the Other Personal Services appropriation category, and \$1,367 is appropriated in the Transfer to Department of Management Services - Human Resources Services Purchased Per Statewide Contract appropriation category. The funds shall be utilized for the recruitment and retention of personnel within the office to ensure the ongoing monitoring of insurance company products and services, as well as the financial condition of licensed insurance companies.

Effective Dates

Section 26 provides that the bill takes effect upon becoming law, except as otherwise expressly provided. Bill sections with alternative effective dates are:

- **Section 8 and Section 11**, which are effective January 1, 2023.
- **Section 15**, which is effective March 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill appropriates for 2022-2023 fiscal year, \$1,757,982 in recurring funds from the Insurance Regulatory Trust Fund to the OIR with an associated salary rate of \$844,464. The funds will be allocated as follows: \$1,356,615 for Salaries and Benefits, \$400,000 for Other Personal Services Category, and \$1,367 to DMS. Funds also will be used for recruitment and retention of personnel within the OIR.

C. Government Sector Impact:

The bill authorizes cumulative transfers not to exceed \$1 billion from the General Revenue Fund to the Florida Optional Reinsurance Assistance (FORA) Program for the 2022-23 contract term beginning June 1, 2023. The FORA program statute expires June 30, 2026, if no general revenue funds have been transferred to fund the FORA program. If such funds are transferred, the statute expires July 1, 2030, and all unencumbered FORA program funds must be transferred back to the General Revenue Fund.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends ss. 624.1551, 624.3161, 626.9373, 626.9541, 627.351, 627.3511, 627.3518, 627.428, 627.7011, 627.70131, 627.70132, 627.70152, 627.7074, 627.7142, 627.7152, 631.252, and 768.79 of the Florida Statutes.

This bill creates s. 215.5552 and s. 627.70154 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



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The Committee on Fiscal Policy (Berman) recommended the following:

Senate Amendment (with title amendment)

Delete lines 2748 - 2863

and insert:

627.7142 Homeowner Claims Bill of Rights; Reduction of Policyholder Rights Due to 2022 Changes in Florida Law.—

(1) An insurer issuing a personal lines residential



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9 property insurance policy in this state must provide a Homeowner
10 Claims Bill of Rights to a policyholder within 14 days after
11 receiving an initial communication with respect to a claim. The
12 purpose of the bill of rights is to summarize, in simple,
13 nontechnical terms, existing Florida law regarding the rights of
14 a personal lines residential property insurance policyholder who
15 files a claim of loss. The Homeowner Claims Bill of Rights is
16 specific to the claims process and does not represent all of a
17 policyholder's rights under Florida law regarding the insurance
18 policy. The Homeowner Claims Bill of Rights does not create a
19 civil cause of action by any individual policyholder or class of
20 policyholders against an insurer or insurers. The failure of an
21 insurer to properly deliver the Homeowner Claims Bill of Rights
22 is subject to administrative enforcement by the office but is
23 not admissible as evidence in a civil action against an insurer.
24 The Homeowner Claims Bill of Rights does not enlarge, modify, or
25 contravene statutory requirements, including, but not limited
26 to, ss. 626.854, 626.9541, 627.70131, 627.7015, and 627.7074,
27 and does not prohibit an insurer from exercising its right to
28 repair damaged property in compliance with the terms of an
29 applicable policy or ss. 627.7011(6)(e) and 627.702(7). The
30 Homeowner Claims Bill of Rights must state:

31
32 HOMEOWNER CLAIMS

33 BILL OF RIGHTS

34 This Bill of Rights is specific to the claims process
35 and does not represent all of your rights under
36 Florida law regarding your policy. There are also
37 exceptions to the stated timelines when conditions are



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38 beyond your insurance company's control. This document
39 does not create a civil cause of action by an
40 individual policyholder, or a class of policyholders,
41 against an insurer or insurers and does not prohibit
42 an insurer from exercising its right to repair damaged
43 property in compliance with the terms of an applicable
44 policy.

45

46 YOU HAVE THE RIGHT TO:

47 1. Receive from your insurance company an
48 acknowledgment of your reported claim within 7 ~~14~~ days
49 after the time you communicated the claim.

50 2. Upon written request, receive from your
51 insurance company within 30 days after you have
52 submitted a complete proof-of-loss statement to your
53 insurance company, confirmation that your claim is
54 covered in full, partially covered, or denied, or
55 receive a written statement that your claim is being
56 investigated.

57 3. Receive from your insurance company a copy of
58 any detailed estimate of the amount of the loss within
59 7 days after the estimate is generated by the
60 insurance company's adjuster.

61 4. Within 60 ~~90~~ days, subject to any dual
62 interest noted in the policy, receive full settlement
63 payment for your claim or payment of the undisputed
64 portion of your claim, or your insurance company's
65 denial of your claim.

66 ~~5.4.~~ Receive payment of interest, as provided in



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67 s. 627.70131, Florida Statutes, from your insurance
68 company, which begins accruing from the date your
69 claim is filed if your insurance company does not pay
70 full settlement of your initial, reopened, or
71 supplemental claim or the undisputed portion of your
72 claim or does not deny your claim within 60 ~~90~~ days
73 after your claim is filed. The interest, if
74 applicable, must be paid when your claim or the
75 undisputed portion of your claim is paid.

76 ~~6.5.~~ Free mediation of your disputed claim by the
77 Florida Department of Financial Services, Division of
78 Consumer Services, under most circumstances and
79 subject to certain restrictions.

80 ~~7.6.~~ Neutral evaluation of your disputed claim,
81 if your claim is for damage caused by a sinkhole and
82 is covered by your policy.

83 ~~8.7.~~ Contact the Florida Department of Financial
84 Services, Division of Consumer Services' toll-free
85 helpline for assistance with any insurance claim or
86 questions pertaining to the handling of your claim.
87 You can reach the Helpline by phone at ...(toll-free
88 phone number)..., or you can seek assistance online at
89 the Florida Department of Financial Services, Division
90 of Consumer Services' website at ...(website
91 address)....

92
93 YOU ARE ADVISED TO:

94 1. File all claims directly with your insurance
95 company.



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96 2. Contact your insurance company before entering
97 into any contract for repairs to confirm any managed
98 repair policy provisions or optional preferred
99 vendors.

100 3. Make and document emergency repairs that are
101 necessary to prevent further damage. Keep the damaged
102 property, if feasible, keep all receipts, and take
103 photographs or video of damage before and after any
104 repairs to provide to your insurer.

105 4. Carefully read any contract that requires you
106 to pay out-of-pocket expenses or a fee that is based
107 on a percentage of the insurance proceeds that you
108 will receive for repairing or replacing your property.

109 5. Confirm that the contractor you choose is
110 licensed to do business in Florida. You can verify a
111 contractor's license and check to see if there are any
112 complaints against him or her by calling the Florida
113 Department of Business and Professional Regulation.
114 You should also ask the contractor for references from
115 previous work.

116 6. Require all contractors to provide proof of
117 insurance before beginning repairs.

118 7. Take precautions if the damage requires you to
119 leave your home, including securing your property and
120 turning off your gas, water, and electricity, and
121 contacting your insurance company and provide a phone
122 number where you can be reached.

123
124 (2) For personal lines residential property insurance



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125 policies entered into or renewed beginning March 1, 2023, and
126 through March 1, 2024, the policyholder must be notified of the
127 Reduction of Policyholder Rights Due to 2022 Changes in Florida
128 Law provisions and must provide written acknowledgement of such
129 notification:

130
131 REDUCTION OF POLICYHOLDER RIGHTS
132 DUE TO 2022 CHANGES IN FLORIDA LAW
133

134 1. As a policyholder, you no longer have the
135 right to assign your claim to a third party, which
136 includes, but is not limited to, a contractor, a water
137 mitigation company, a roofing company, or an emergency
138 services company.

139 2. As a policyholder, you cannot seek or obtain
140 damages for bad faith or extracontractual damages
141 until and unless you prevail in a summary judgment
142 action or obtain a jury verdict followed by obtaining
143 a final judgment.

144 3. As a policyholder, you are not entitled to
145 recover attorney fees even if the insurance company
146 wrongfully denies, delays, or underpays the claim.

147 4. As a policyholder, you may not be able to
148 access the courts for resolution of your dispute,
149 depending upon the language in your insurance policy.
150 Changes in Florida law allow your insurance company to
151 write mandatory arbitration provisions into the
152 insurance policy.

153 5. If you are insured by Citizens Property



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154 Insurance Corporation, as a policyholder, you will now
155 have the burden to prove that water damage from a
156 windstorm event is wind damage, rather than the burden
157 resting with your insurance company to prove that
158 flooding caused the damage.

159 6. If you are insured by Citizens Property
160 Insurance Corporation, as a policyholder, you will be
161 required to pay for flood insurance as a condition of
162 having windstorm coverage.

163 7. Recent changes in Florida law allow your
164 insurance company to complete the ENTIRE investigation
165 and payment or denial of a claim without ever visiting
166 the property to inspect the damage in person. This may
167 be performed remotely by using photos and other
168 digital means to estimate the value of the claim.

169 8. As a policyholder, you have 18 months to
170 complete repairs and/or complete necessary
171 replacement(s) to the home, building, structure, and
172 contents and provide changes and/or supplements to the
173 claim, regardless of how your insurance company has
174 acted in response to the claim and regardless of how
175 long it takes the insurance company to investigate,
176 adjust, and make a claims determination on the initial
177 claim.

178 9. Before filing a lawsuit against an insurer,
179 you must file a notice of intent to litigate, which
180 must include extensive documentation supporting
181 coverage and the amount claimed. You are prohibited
182 from using any of the supporting documents as evidence



532468

183 in any proceeding.

184

185 ===== T I T L E A M E N D M E N T =====

186 And the title is amended as follows:

187 Between lines 132 and 133

188 insert:

189 requiring that policyholders of personal lines
190 residential property insurance policies entered into
191 or renewed during a specified period receive and
192 provide written acknowledgment of a specified
193 Reduction of Policyholder Rights Due to 2022 Changes
194 in Florida Law notification;



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The Committee on Fiscal Policy (Osgood) recommended the following:

Senate Amendment (with title amendment)

Between lines 3016 and 3017

insert:

Section 24. Paragraph (b) of subsection (3) of section 631.398, Florida Statutes, is amended to read:

631.398 Prevention of insolvencies.—To aid in the detection



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9 and prevention of insurer insolvencies or impairments:

10 (3)

11 (b) For an insolvency involving a domestic property
12 insurer, the department shall:

13 1. Begin an analysis of the history and causes of the
14 insolvency once the department is appointed by the court as
15 receiver.

16 2. Submit an initial report analyzing the history and
17 causes of the insolvency to the Governor, the President of the
18 Senate, the Speaker of the House of Representatives, and the
19 office. The initial report must be submitted no later than 4
20 months after the department is appointed as receiver. The
21 initial report shall be updated at least annually until the
22 submission of the final report. The report may not be used as
23 evidence in any proceeding brought by the department or others
24 to recover assets on behalf of the receivership estate as part
25 of its duties under s. 631.141(8). The submission of a report
26 under this subparagraph shall not be considered a waiver of any
27 evidentiary privilege the department may assert under state or
28 federal law. The department shall publish the initial report and
29 all updated reports on its website within 10 days after
30 submission under this subparagraph.

31 3. Provide a special report to the Governor, the President
32 of the Senate, the Speaker of the House of Representatives, and
33 the office, within 10 days upon identifying any condition or
34 practice that may lead to insolvency in the property insurance
35 marketplace.

36 4. Submit a final report analyzing the history and causes
37 of the insolvency and the review of the Office of Insurance



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38 Regulation's regulatory oversight of the insurer to the
39 Governor, the President of the Senate, the Speaker of the House
40 of Representatives, and the office within 30 days of the
41 conclusion of the insolvency proceeding. The department shall
42 publish the final report on its website within 10 days after
43 submission under this subparagraph.

44 5. Review the Office of Insurance Regulation's regulatory
45 oversight of the insurer.

46
47 ===== T I T L E A M E N D M E N T =====

48 And the title is amended as follows:

49 Between lines 143 and 144

50 insert:

51 631.398; requiring the Department of Financial
52 Services to publish certain reports relating to
53 insolvent domestic property insurers on its website
54 within a specified timeframe after submission to the
55 Governor, the Legislature, and the office; amending s.



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| | . | |

The Committee on Fiscal Policy (Osgood) recommended the following:

Senate Amendment (with title amendment)

Between lines 3024 and 3025

insert:

Section 25. The Office of Program Policy Analysis and Government Accountability shall conduct an analysis of all residential property insurance companies operating in this state



242906

9 to determine the financial performance, including the
10 underwriting and investment profit and loss, of each company. At
11 a minimum, the analysis must include consideration of moneys
12 paid to managing general agents or other third parties
13 contracted to perform regular operations for the company and
14 amounts in loss reserves, specifically as a percentage of total
15 assets. The office shall submit a report of its findings to the
16 Governor, the President of the Senate, and the Speaker of the
17 House of Representatives by January 1, 2024.

18
19 ===== T I T L E A M E N D M E N T =====

20 And the title is amended as follows:

21 Delete line 147

22 and insert:

23 mutual acceptance of all joint offerees; requiring the
24 Office of Program Policy Analysis and Government
25 Accountability (OPPAGA) to conduct a specified
26 analysis of all residential property insurance
27 companies operating in this state; requiring OPPAGA to
28 submit a report of its findings to the Governor and
29 the Legislature; providing an

By Senator Boyd

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1 A bill to be entitled
 2 An act relating to property insurance; creating s.
 3 215.5552, F.S.; creating the Florida Optional
 4 Reinsurance Assistance program (FORA), to be
 5 administered by the State Board of Administration;
 6 defining terms; authorizing eligible insurers to
 7 purchase reinsurance coverage under FORA; requiring
 8 the board to provide specified coverage layers;
 9 specifying coverage limits for each option; specifying
 10 requirements for reimbursement contracts between the
 11 board and FORA insurers; specifying the calculation of
 12 payout multiples and layer retentions; authorizing the
 13 board to inspect, examine, and verify certain records;
 14 specifying the calculation of premiums and
 15 requirements for the payment of premiums; providing
 16 construction relating to the claims-paying capacity of
 17 the Florida Hurricane Catastrophe Fund; specifying
 18 requirements and procedures if a FORA insurer becomes
 19 insolvent; providing construction relating to
 20 violations; authorizing the board to take legal
 21 actions and adopt rules, including emergency rules;
 22 providing legislative findings; specifying
 23 requirements and procedures for the appropriation of
 24 funds from the General Revenue Fund to provide
 25 reimbursements; requiring the board to submit annual
 26 reports to the Governor and the Legislature; providing
 27 for contingent expiration; amending s. 624.1551, F.S.;
 28 revising conditions that must be met for a claim for
 29 extracontractual damages in a civil remedy action

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30 against a property insurer; providing construction;
 31 amending s. 624.3161, F.S.; providing that property
 32 insurers may be subject to an additional market
 33 conduct examination by the Office of Insurance
 34 Regulation after a hurricane under certain
 35 circumstances; providing requirements for such
 36 examination; amending s. 624.418, F.S.; adding
 37 specified grounds on which the office may suspend or
 38 revoke a property insurer's certificate of authority;
 39 amending s. 624.424, F.S.; adding information required
 40 to be reported by property insurers in their quarterly
 41 supplemental reports; amending s. 626.9373, F.S.;
 42 deleting a right to attorney fees for judgments or
 43 decrees against surplus lines insurers in suits
 44 arising under residential or commercial property
 45 insurance policies; amending s. 626.9541, F.S.;
 46 revising conditions for a certain unfair claim
 47 settlement practice by a property insurer; amending s.
 48 627.351, F.S.; authorizing Citizens Property Insurance
 49 Corporation, if certain conditions are met, to
 50 consolidate its three separate accounts into a single
 51 Citizens account for all revenues, assets,
 52 liabilities, losses, and expenses of the corporation;
 53 specifying the corporation's authority, and
 54 requirements for and prohibited acts by the
 55 corporation, under the Citizens account; providing
 56 applicability; specifying requirements and procedures
 57 with respect to a deficit in the Citizens account;
 58 defining terms; providing requirements for the Florida

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59 Surplus Lines Service Office; revising requirements
 60 for the corporation's plan of operation; revising
 61 eligibility requirements for renewing coverage with
 62 the corporation for personal lines residential and
 63 commercial lines residential risks; providing
 64 construction; providing requirements relating to
 65 certain excess premium and investment income in the
 66 Citizens account; authorizing specified insurers to
 67 petition the office to qualify as limited
 68 apportionment companies; providing requirements for
 69 such companies; specifying disclosure requirements to
 70 applicants for coverage from the corporation if the
 71 Citizens account is established; providing that, for
 72 certain purposes, the corporation's rates for coverage
 73 may not be competitive with approved rates charged in
 74 the admitted voluntary market; requiring the office to
 75 provide certain information to the corporation;
 76 specifying annual rate increase limits for personal
 77 lines policies written on or after a specified date
 78 which do not cover a primary residence; defining the
 79 term "primary residence"; requiring the corporation to
 80 require the securing and maintenance of flood
 81 insurance as a condition of personal lines residential
 82 coverage; specifying requirements for such flood
 83 insurance coverage; specifying deadlines by which
 84 policyholders must secure and maintain flood
 85 insurance; revising eligibility requirements for
 86 coverage with the corporation when take-out offers are
 87 received by policyholders; specifying a burden of

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

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88 proof for corporation policyholders making claims for
 89 water damage; making technical changes; conforming
 90 provisions to changes made by the act; amending s.
 91 627.3511, F.S.; conforming cross-references; amending
 92 s. 627.3518, F.S.; deleting a provision construing the
 93 eligibility for coverage with the corporation for
 94 certain applicants; conforming a provision to changes
 95 made by the act; amending s. 627.410, F.S.; requiring
 96 the office to reexamine certain policy forms of a
 97 property insurer under certain circumstances;
 98 specifying actions the office may take; amending s.
 99 627.428, F.S.; deleting a right to attorney fees for
 100 judgments or decrees against insurers in suits arising
 101 under residential or commercial property insurance
 102 policies; amending s. 627.7011, F.S.; revising
 103 disclosure requirements relating to flood insurance
 104 for insurers issuing homeowners' policies; amending s.
 105 627.70131, F.S.; revising requirements for insurers
 106 relating to acknowledging communications regarding
 107 claims, investigating claims, sending estimates of
 108 losses to policyholders, recordkeeping, and paying or
 109 denying claims; authorizing insurers to use specified
 110 methods in investigating losses; authorizing insurers
 111 to void insurance policies under certain
 112 circumstances; defining the term "factors beyond the
 113 control of the insurer"; specifying circumstances
 114 under which certain requirements are tolled; providing
 115 construction; amending s. 627.70132, F.S.; revising
 116 timeframes under which notices of claims, reopened

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

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117 claims, and supplemental claims under property
 118 insurance policies must be given to insurers or be
 119 barred; amending s. 627.70152, F.S.; revising
 120 applicability; deleting the definition of the term
 121 "amount obtained"; providing that certain
 122 prelitigation notices and documentation are not
 123 admissible as evidence in any proceeding; deleting
 124 provisions relating to the calculation of attorney
 125 fees; creating s. 627.70154, F.S.; specifying
 126 conditions that must be met for a property insurance
 127 policy to require mandatory binding arbitration;
 128 amending s. 627.7074, F.S.; deleting the right to
 129 attorney fees payable by insurers in the alternative
 130 procedure for resolution of disputed sinkhole
 131 insurance claims; conforming a provision to changes
 132 made by the act; amending s. 627.7142, F.S.;
 133 conforming provisions to changes made by the act;
 134 amending s. 627.7152, F.S.; prohibiting policyholders
 135 from assigning post-loss insurance benefits under
 136 residential or commercial property insurance policies
 137 issued on or after a specified date; providing
 138 construction; amending s. 627.7154, F.S.; revising
 139 duties of the office's Property Insurer Stability
 140 Unit; amending s. 631.252, F.S.; providing that a
 141 coverage continuation period for policies of an
 142 insolvent property insurer may be extended by the
 143 office under specified circumstances; amending s.
 144 768.79, F.S.; authorizing a property insurer in a
 145 breach of contract action to make a joint offer of

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

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146 judgment or settlement that is conditioned on the
 147 mutual acceptance of all joint offerees; providing an
 148 appropriation; providing effective dates.
 149
 150 Be It Enacted by the Legislature of the State of Florida:
 151
 152 Section 1. Section 215.5552, Florida Statutes, is created
 153 to read:
 154 215.5552 Florida Optional Reinsurance Assistance program.—
 155 (1) CREATION OF THE FLORIDA OPTIONAL REINSURANCE ASSISTANCE
 156 PROGRAM.—There is created the Florida Optional Reinsurance
 157 Assistance program to be administered by the State Board of
 158 Administration.
 159 (2) DEFINITIONS.—As used in this section, the term:
 160 (a) "Board" means the State Board of Administration.
 161 (b) "Contract year" has the same meaning as in s.
 162 215.555(2)(o).
 163 (c) "Covered event" has the same meaning as in s.
 164 215.555(2)(b).
 165 (d) "Covered policy" has the same meaning as in s.
 166 215.555(2)(c).
 167 (e) "FHCF" means the Florida Hurricane Catastrophe Fund
 168 created under s. 215.555.
 169 (f) "Final FORA premium" means the premium due no later
 170 than March 1, 2024, paid by a FORA insurer after the actual 2023
 171 FHCF premiums are calculated.
 172 (g) "FORA" means the Florida Optional Reinsurance
 173 Assistance program created under this section.
 174 (h) "FORA eligible insurer" means a FHCF participating

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175 insurer as of November 30, 2022. New FHCF participants after
 176 that date are ineligible for FORA coverage. In addition, any
 177 joint underwriting association, risk apportionment plan, or
 178 other entity created under s. 627.351 is not considered a FORA
 179 insurer and may not obtain coverage under FORA.

180 (i) "FORA insurer" means a FORA eligible insurer that
 181 executes a FORA reimbursement contract pursuant to this section.

182 (j) "FORA layer limit" means, for the 2023-2024 contract
 183 year, a FORA insurer's maximum payout for its FORA layer.

184 (k) "FORA layer retention" means the amount of losses below
 185 which a FORA insurer is not entitled to reimbursement for the
 186 selected layer under FORA.

187 (l) "FORA payout multiple" means the factors by FHCF
 188 coverage and FORA layer that are multiplied by a FORA insurer's
 189 FHCF premium to calculate the FORA insurer's FORA layer limits.

190 (m) "FORA reimbursement contract" means the reimbursement
 191 contract reflecting the obligations of a FORA insurer and the
 192 board.

193 (n) "FORA retention multiple" means the factors by FHCF
 194 coverage and FORA layer that are multiplied by a FORA insurer's
 195 FHCF premium to calculate the FORA insurer's FORA layer
 196 retentions.

197 (o) "Initial FORA premium" means the premium paid by a FORA
 198 insurer by July 1, 2023, for coverage under the FORA program.

199 (p) "Losses" has the same meaning as in s. 215.555(2)(d).

200 (q) "RAP insurer" has the same meaning as in s.
 201 215.5551(2)(h).

202 (r) "Unsound insurer" means a FORA insurer determined by
 203 the Office of Insurance Regulation to be in unsound condition as

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204 defined in s. 624.80(2) or a FORA insurer placed in receivership
 205 under chapter 631.

206 (3) COVERAGE.—

207 (a) Each FORA eligible insurer may purchase coverage under
 208 FORA. The board shall provide four optional layers below the
 209 FHCF retention prior to the third event dropdown of the FHCF
 210 retention set forth in s. 215.555(2)(e)4. Only RAP insurers
 211 required to participate in the 2022-2023 contract year may
 212 select FORA layers 1 through 3. All FORA eligible insurers may
 213 purchase FORA layer 4. If a RAP insurer required to participate
 214 in the 2022-2023 contract year chooses to purchase layer 2, 3,
 215 or 4, such layers must be purchased inclusive of the prior layer
 216 and cannot be purchased separately.

217 (b) FORA industry limits prior to FORA insurer selections
 218 are as follows:

219 1. FORA industry layer 1 limit is \$1 billion.

220 2. FORA industry layer 2 limit is \$1 billion.

221 3. FORA industry layer 3 limit is \$2 billion divided by the
 222 RAP Qualification ratio minus \$2 billion.

223 4. FORA industry layer 4 limit is \$1 billion minus the
 224 total FORA industry limit selected for FORA layers 1, 2, and 3,
 225 plus the total FORA premium collected for FORA layers 1, 2, and
 226 3.

227 (c) The maximum aggregate coverage for all selected FORA
 228 layers is \$1 billion as provided under paragraph (1)(a) plus
 229 premiums needed to fulfill the obligations of this section.

230 (4) FORA REIMBURSEMENT CONTRACTS.—

231 (a) FORA eligible insurers selecting coverage must execute
 232 a FORA reimbursement contract with the board.

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233 (b) The board must enter into a FORA reimbursement contract
 234 effective June 1, 2023, with each FORA eligible insurer electing
 235 to purchase coverage. Such contract must provide coverage
 236 pursuant to this section in exchange for premium paid.

237 (c) The FORA reimbursement contract must be executed by the
 238 FORA insurer no later than April 15, 2023, for layers 1 through
 239 3, and May 30, 2023, for layer 4.

240 (d) For the two covered events with the largest losses for
 241 the FORA insurer, the FORA reimbursement contract must contain a
 242 promise by the board to reimburse the FORA insurer for 100
 243 percent of its losses from each covered event in excess of the
 244 lowest selected FORA layer's retention. The sum of the FORA
 245 insurer's covered losses from the two covered events with the
 246 largest losses from each FORA layer may not exceed the FORA
 247 insurer's combined selected FORA layer limit or limits.

248 (e) The FORA reimbursement contract must provide that
 249 reimbursement amounts are not reduced by reinsurance paid or
 250 payable to the insurer from other sources.

251 (f) The board shall calculate and report to each FORA
 252 insurer the initial and final FORA payout multiples for each
 253 FORA layer using the source data described in paragraph (5) (a).

254 1. For FORA layer 1, the FORA payout multiple is the
 255 quotient of \$1 billion divided by the FHCF industry aggregate
 256 retention multiplied by the FHCF retention multiple for the FHCF
 257 coverage selected.

258 2. For FORA layer 2, the FORA payout multiple is the
 259 quotient of \$1 billion divided by the FHCF industry aggregate
 260 retention multiplied by the FHCF retention multiple for the FHCF
 261 coverage selected.

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262 3. For FORA layer 3, the FORA payout multiple is calculated
 263 as follows: the numerator is the quotient of \$2 billion divided
 264 by the RAP qualification ratio as defined in s. 215.5551(2) (j)
 265 minus \$2 billion. The denominator is the FHCF industry aggregate
 266 retention. The FORA multiple is the FHCF retention multiple
 267 multiplied by the numerator divided by the denominator.

268 4. The FORA layer 4 payout multiple is the total FORA
 269 industry layer 4 limit divided by the FHCF industry aggregate
 270 retention multiplied by the FHCF retention multiple for the FHCF
 271 coverage selected. For FORA layer 4, the total FORA industry
 272 layer limit is \$1 billion minus the total FORA industry limit
 273 selected for FORA layers 1, 2, and 3, plus the total FORA
 274 premium collected for FORA layers 1, 2, and 3.

275 (g) For each FORA layer, the FORA payout multiple is
 276 multiplied by the FORA insurer's FHCF premium to calculate its
 277 FORA maximum payout. FORA payout multiples are calculated for 45
 278 percent, 75 percent, and 90 percent FHCF mandatory coverage
 279 selections.

280 (h) For a FORA insurer that selects more than one layer,
 281 the FORA layer limits shall be combined to a single aggregate
 282 limit for the two covered events with the largest losses for the
 283 FORA insurer.

284 (i) FORA layer retentions are calculated as follows:

285 1. For each FORA layer, the board shall calculate and
 286 report to each FORA insurer the initial and final FORA retention
 287 multiples for each FHCF coverage selection as the FHCF retention
 288 multiple minus the FORA payout multiple using the source data
 289 described in paragraph (5) (a). The FORA retention multiple is
 290 multiplied by the FORA insurer's FHCF premium to calculate its

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291 FORA retention. FORA retention multiples are calculated for 45
 292 percent, 75 percent, and 90 percent FHCF mandatory coverage
 293 selections.

294 2. The FORA industry retention for the 2023-2024 contract
 295 year for FORA layer 1 is the FHCF's industry retention minus \$1
 296 billion. The FORA layer 2 industry retention is the FHCF
 297 industry retention minus \$2 billion. The FORA layer 3 industry
 298 retention is the FHCF's industry retention minus the quotient of
 299 \$2 billion divided by the RAP qualification ratio. The FORA
 300 layer 4 industry retention is the FORA layer 3 retention minus
 301 the FORA layer 4 limit.

302 3. A FORA insurer's initial and final FORA retentions are
 303 determined by multiplying its FHCF reimbursement premium by the
 304 FORA retention multiple for each FHCF coverage selection using
 305 the source data in paragraph (5) (a).

306 4. For a FORA insurer that selects more than one layer, the
 307 FORA combined layer retention shall be the lowest selected layer
 308 retention for each of the two covered events with the largest
 309 losses for the FORA insurer.

310 (j) To ensure that insurers have properly reported the
 311 losses for which FORA reimbursements have been made, the board
 312 may inspect, examine, and verify the records of each FORA
 313 participating insurer's covered policies at such times as the
 314 board deems appropriate for the specific purpose of validating
 315 the accuracy of losses required to be reported under the terms
 316 and conditions of the FORA reimbursement contract.

317 (5) FORA PREMIUMS.—

318 (a) Premiums shall be charged as follows:

319 1. Fifty percent Rate on Line multiplied by the FORA

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320 insurer's FORA layer 1 limit.

321 2. Fifty-five percent Rate on Line multiplied by the FORA
 322 insurer's FORA layer 2 limit.

323 3. Sixty percent Rate on Line multiplied by the FORA
 324 insurer's FORA layer 3 limit.

325 4. Sixty-five percent Rate on Line multiplied by the FORA
 326 insurer's FORA layer 4 limit.

327 (b) Initial FORA premiums shall be based on the 2023 FHCF
 328 projected industry retention, FHCF retention multiples, 2022 RAP
 329 qualification ratio, and insurers' 2022 FHCF premiums. Final
 330 FORA premiums will be adjusted after December 31, 2023, based on
 331 December 31, 2023, FHCF premiums, FHCF industry retention, the
 332 2023 RAP qualification ratio and insurers' 2023 FHCF premiums.

333 (c) Failure to pay the initial FORA premium in full by July
 334 1, 2023, shall result in disqualification as a FORA insurer. The
 335 final FORA premium will be due no later than March 1, 2024.

336 (6) CLAIMS-PAYING CAPACITY.—FORA shall not affect the
 337 claims-paying capacity of the FHCF as provided in s.
 338 215.555(4) (c)1.

339 (7) INSOLVENCY OF FORA INSURER.—

340 (a) The FORA reimbursement contract must provide that in
 341 the event of an insolvency of a FORA insurer, the board shall
 342 pay reimbursements directly to the applicable state guaranty
 343 fund for the benefit of policyholders in this state of the FORA
 344 insurer.

345 (b) If an authorized insurer or the Citizens Property
 346 Insurance Corporation accepts an assignment of an unsound
 347 insurer's FORA reimbursement contract, the board shall apply the
 348 unsound insurer's FORA reimbursement contract to such policies

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349 and treat the authorized insurer or the Citizens Property
 350 Insurance Corporation as if it were the unsound insurer for the
 351 remaining term of the FORA reimbursement contract, with all
 352 rights and duties of the unsound insurer beginning on the date
 353 it provides coverage for such policies. This paragraph may not
 354 be construed to limit the board's right to receive the premium
 355 due under the Unsound insurer's FORA reimbursement contract.

356 (8) VIOLATIONS.—Any violation of this section or of rules
 357 adopted under this section constitutes a violation of the
 358 Florida Insurance Code.

359 (9) LEGAL PROCEEDINGS.—The board may take any action
 360 necessary to enforce the rules, provisions, and requirements of
 361 the FORA reimbursement contract under this section.

362 (10) RULEMAKING.—The board may adopt rules to implement
 363 this section. In addition, the board may adopt emergency rules
 364 pursuant to s. 120.54(4) at any time as are necessary to
 365 implement this section for the 2023-2024 fiscal year. The
 366 Legislature finds that such emergency rulemaking power is
 367 necessary in order to address a critical need in the state's
 368 problematic property insurance market. The Legislature further
 369 finds that the uniquely short timeframe needed to effectively
 370 implement this section for the 2023-2024 fiscal year requires
 371 that the board adopt rules as quickly as practicable. Therefore,
 372 in adopting such emergency rules, the board need not make the
 373 findings required by s. 120.54(4) (a). Emergency rules adopted
 374 under this section are exempt from s. 120.54(4) (c) and shall
 375 remain in effect until replaced by rules adopted under the
 376 nonemergency rulemaking procedures of chapter 120, which must
 377 occur no later than December 31, 2023.

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378 (11) APPROPRIATION.—

379 (a) Within 60 days after a covered event, the board shall
 380 submit written notice to the Executive Office of the Governor if
 381 the board determines that funds from FORA coverage established
 382 by this section will be necessary to reimburse FORA insurers for
 383 losses associated with the covered event. The initial notice,
 384 and any subsequent requests, must specify the amount necessary
 385 to provide FORA reimbursements. Upon receiving such notice, the
 386 Executive Office of the Governor shall instruct the Chief
 387 Financial Officer to draw a warrant from the General Revenue
 388 Fund for a transfer to the board for FORA in the amount
 389 requested. The Executive Office of the Governor shall provide
 390 written notification to the chair and vice chair of the
 391 Legislative Budget Commission at least 3 days before the
 392 effective date of the warrant. Cumulative transfers authorized
 393 under this paragraph may not exceed \$1 billion.

394 (b) Upon this act becoming a law, the Executive Office of
 395 the Governor shall instruct the Chief Financial Officer to draw
 396 a warrant from the General Revenue Fund for a transfer of \$2
 397 million to the board for the implementation and administration
 398 of FORA and post-event examinations for covered events that
 399 require FORA coverage. If the board determines additional
 400 administrative funds are needed, the board shall submit written
 401 notice to the Executive Office of the Governor that funds will
 402 be necessary for the implementation and administration of FORA
 403 and post-event examinations for covered events that require FORA
 404 coverage. The notice must specify the amount necessary for
 405 administration of FORA and post-event examinations. Upon
 406 receiving such notice, the Executive Office of the Governor

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407 shall instruct the Chief Financial Officer to draw a warrant
 408 from the General Revenue Fund for a transfer to the board for
 409 FORA in the amount requested. The Executive Office of the
 410 Governor shall provide written notification to the chair and
 411 vice chair of the Legislative Budget Commission at least 3 days
 412 before the effective date of the warrant. Cumulative transfers
 413 authorized under this paragraph may not exceed \$6 million.

414 (c) If a covered event occurs that triggers reimbursements
 415 under FORA, no later than January 31, 2024, and quarterly
 416 thereafter, the board shall submit a report to the Executive
 417 Office of the Governor, the President of the Senate, and the
 418 Speaker of the House of Representatives detailing any
 419 reimbursements of FORA, all premiums collected, all loss
 420 development projections, and detailed information about
 421 administrative and post-event examination activities and
 422 expenditures.

423 (12) EXPIRATION DATE.—If no general revenue funds have been
 424 transferred to the board for FORA under subsection (11) by June
 425 30, 2026, this section expires on July 1, 2026. If general
 426 revenue funds have been transferred to the board for FORA under
 427 subsection (11) by June 30, 2026, this section expires on July
 428 1, 2030, and all unencumbered funds collected under this section
 429 shall be transferred by the board back to the General Revenue
 430 Fund unallocated.

431 Section 2. Section 624.1551, Florida Statutes, is amended
 432 to read:

433 624.1551 Civil remedy actions against property insurers.—
 434 Notwithstanding any provision of s. 624.155 to the contrary, in
 435 any claim for extracontractual damages under s. 624.155(1)(b),

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436 no action shall lie until a named or omnibus insured or a named
 437 beneficiary has established through an adverse adjudication by a
 438 court of law ~~a claimant must establish~~ that the property insurer
 439 breached the insurance contract and a final judgment or decree
 440 has been rendered against the insurer. Acceptance of an offer of
 441 judgment under s. 768.79 or the payment of an appraisal award
 442 does not constitute an adverse adjudication under this section.
 443 The difference between an insurer's appraiser's final estimate
 444 and the appraisal award may be evidence of bad faith ~~to prevail~~
 445 in a claim for extracontractual damages under s. 624.155(1)(b),
 446 but is not deemed an adverse adjudication under this section and
 447 does not, on its own, give rise to a cause of action.

448 Section 3. Subsection (7) is added to section 624.3161,
 449 Florida Statutes, to read:

450 624.3161 Market conduct examinations.—

451 (7) Notwithstanding subsection (1), any authorized insurer
 452 transacting property insurance business in this state may be
 453 subject to an additional market conduct examination after a
 454 hurricane if the insurer:

455 (a) Is among the top 20 percent of insurers based upon a
 456 calculation of the ratio of hurricane-related property insurance
 457 claims filed to the number of property insurance policies in
 458 force;

459 (b) Is among the top 20 percent of insurers based upon a
 460 calculation of the ratio of consumer complaints made to the
 461 department to hurricane-related claims;

462 (c) Has made significant payments to its managing general
 463 agent since the hurricane; or

464 (d) Is identified by the office as necessitating a market

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465 conduct exam for any other reason.

466

467 All relevant criteria under this section and s. 624.316 shall be
 468 applied to the market conduct examination under this subsection.

469 Such an examination must be initiated within 18 months after the
 470 landfall of a hurricane that results in an executive order or a
 471 state of emergency issued by the Governor. An examination of an
 472 insurer under this subsection must also include an examination
 473 of its managing general agent as if it were the insurer.

474 Section 4. Paragraph (c) of subsection (2) of section
 475 624.418, Florida Statutes, is amended to read:

476 624.418 Suspension, revocation of certificate of authority
 477 for violations and special grounds.—

478 (2) The office may, in its discretion, suspend or revoke
 479 the certificate of authority of an insurer if it finds that the
 480 insurer:

481 (c) Has for any line, class, or combination thereof, with
 482 such frequency as to indicate its general business practice in
 483 this state, without just cause:

484 1. Refused to pay proper claims arising under its policies,
 485 whether any such claim is in favor of an insured or is in favor
 486 of a third person with respect to the liability of an insured to
 487 such third person, or without just cause compels such insureds
 488 or claimants to accept less than the amount due them or to
 489 employ attorneys or to bring suit against the insurer or such an
 490 insured to secure full payment or settlement of such claims; or

491 2. Compelled insureds to participate in appraisal under a
 492 property insurance policy in order to secure full payment or
 493 settlement of such claims.

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494 Section 5. Paragraph (a) of subsection (10) of section
 495 624.424, Florida Statutes, is amended to read:

496 624.424 Annual statement and other information.—

497 (10) (a) Each insurer or insurer group doing business in
 498 this state shall file on a quarterly basis in conjunction with
 499 financial reports required by paragraph (1) (a) a supplemental
 500 report on an individual and group basis on a form prescribed by
 501 the commission with information on personal lines and commercial
 502 lines residential property insurance policies in this state. The
 503 supplemental report shall include separate information for
 504 personal lines property policies and for commercial lines
 505 property policies and totals for each item specified, including
 506 premiums written for each of the property lines of business as
 507 described in ss. 215.555(2)(c) and 627.351(6)(a). The report
 508 shall include the following information for each county on a
 509 monthly basis:

510 1. Total number of policies in force at the end of each
 511 month.

512 2. Total number of policies canceled.

513 3. Total number of policies nonrenewed.

514 4. Number of policies canceled due to hurricane risk.

515 5. Number of policies nonrenewed due to hurricane risk.

516 6. Number of new policies written.

517 7. Total dollar value of structure exposure under policies
 518 that include wind coverage.

519 8. Number of policies that exclude wind coverage.

520 9. Number of claims open each month.

521 10. Number of claims closed each month.

522 11. Number of claims pending each month.

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523 12. Number of claims in which either the insurer or insured
 524 invoked any form of alternative dispute resolution, and
 525 specifying which form of alternative dispute resolution was
 526 used.

527 Section 6. Subsections (1) and (3) of section 626.9373,
 528 Florida Statutes, are amended to read:

529 626.9373 Attorney fees.—

530 (1) Except as provided in subsection (3), upon the
 531 rendition of a judgment or decree by any court of this state
 532 against a surplus lines insurer in favor of any named or omnibus
 533 insured or the named beneficiary under a policy or contract
 534 executed by the insurer on or after the effective date of this
 535 act, the trial court or, if the insured or beneficiary prevails
 536 on appeal, the appellate court, shall adjudge or decree against
 537 the insurer in favor of the insured or beneficiary a reasonable
 538 sum as fees or compensation for the insured's or beneficiary's
 539 attorney prosecuting the lawsuit for which recovery is awarded.
 540 ~~In a suit arising under a residential or commercial property~~
 541 ~~insurance policy, the amount of reasonable attorney fees shall~~
 542 ~~be awarded only as provided in s. 57.105 or s. 627.70152, as~~
 543 ~~applicable.~~

544 (3) In a suit arising under a residential or commercial
 545 property insurance policy, there is no ~~the~~ right to attorney
 546 fees under this section ~~may not be transferred to, assigned to,~~
 547 ~~or acquired in any other manner by anyone other than a named or~~
 548 ~~omnibus insured or a named beneficiary.~~

549 Section 7. Paragraph (i) of subsection (1) of section
 550 626.9541, Florida Statutes, is amended to read:

551 626.9541 Unfair methods of competition and unfair or

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552 deceptive acts or practices defined.—

553 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
 554 ACTS.—The following are defined as unfair methods of competition
 555 and unfair or deceptive acts or practices:

556 (i) *Unfair claim settlement practices.*—

557 1. Attempting to settle claims on the basis of an
 558 application, when serving as a binder or intended to become a
 559 part of the policy, or any other material document which was
 560 altered without notice to, or knowledge or consent of, the
 561 insured;

562 2. A material misrepresentation made to an insured or any
 563 other person having an interest in the proceeds payable under
 564 such contract or policy, for the purpose and with the intent of
 565 effecting settlement of such claims, loss, or damage under such
 566 contract or policy on less favorable terms than those provided
 567 in, and contemplated by, such contract or policy;

568 3. Committing or performing with such frequency as to
 569 indicate a general business practice any of the following:

570 a. Failing to adopt and implement standards for the proper
 571 investigation of claims;

572 b. Misrepresenting pertinent facts or insurance policy
 573 provisions relating to coverages at issue;

574 c. Failing to acknowledge and act promptly upon
 575 communications with respect to claims;

576 d. Denying claims without conducting reasonable
 577 investigations based upon available information;

578 e. Failing to affirm or deny full or partial coverage of
 579 claims, and, as to partial coverage, the dollar amount or extent
 580 of coverage, or failing to provide a written statement that the

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581 claim is being investigated, upon the written request of the
582 insured within 30 days after proof-of-loss statements have been
583 completed;

584 f. Failing to promptly provide a reasonable explanation in
585 writing to the insured of the basis in the insurance policy, in
586 relation to the facts or applicable law, for denial of a claim
587 or for the offer of a compromise settlement;

588 g. Failing to promptly notify the insured of any additional
589 information necessary for the processing of a claim;

590 h. Failing to clearly explain the nature of the requested
591 information and the reasons why such information is necessary;
592 or

593 i. Failing to pay personal injury protection insurance
594 claims within the time periods required by s. 627.736(4)(b). The
595 office may order the insurer to pay restitution to a
596 policyholder, medical provider, or other claimant, including
597 interest at a rate consistent with the amount set forth in s.
598 55.03(1), for the time period within which an insurer fails to
599 pay claims as required by law. Restitution is in addition to any
600 other penalties allowed by law, including, but not limited to,
601 the suspension of the insurer's certificate of authority; or

602 4. Failing to pay undisputed amounts of partial or full
603 benefits owed under first-party property insurance policies
604 within 60 ~~90~~ days after an insurer receives notice of a
605 residential property insurance claim, determines the amounts of
606 partial or full benefits, and agrees to coverage, unless payment
607 of the undisputed benefits is prevented by factors beyond the
608 control of the insurer as defined in s. 627.70131(5) an act of
609 God, prevented by the impossibility of performance, or due to

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610 ~~actions by the insured or claimant that constitute fraud, lack~~
611 ~~of cooperation, or intentional misrepresentation regarding the~~
612 ~~claim for which benefits are owed.~~

613 Section 8. Effective January 1, 2023, paragraphs (b), (c),
614 (n), (o), (p), (q), (v), (w), (aa), and (ii) of subsection (6)
615 of section 627.351, Florida Statutes, are amended, and paragraph
616 (kk) is added to that subsection, to read:

617 627.351 Insurance risk apportionment plans.—

618 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

619 (b)1. All insurers authorized to write one or more subject
620 lines of business in this state are subject to assessment by the
621 corporation and, for the purposes of this subsection, are
622 referred to collectively as "assessable insurers." Insurers
623 writing one or more subject lines of business in this state
624 pursuant to part VIII of chapter 626 are not assessable
625 insurers; however, insureds who procure one or more subject
626 lines of business in this state pursuant to part VIII of chapter
627 626 are subject to assessment by the corporation and are
628 referred to collectively as "assessable insureds." An insurer's
629 assessment liability begins on the first day of the calendar
630 year following the year in which the insurer was issued a
631 certificate of authority to transact insurance for subject lines
632 of business in this state and terminates 1 year after the end of
633 the first calendar year during which the insurer no longer holds
634 a certificate of authority to transact insurance for subject
635 lines of business in this state.

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

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639 (I) A personal lines account for personal residential
 640 policies issued by the corporation which provides comprehensive,
 641 multiperil coverage on risks that are not located in areas
 642 eligible for coverage by the Florida Windstorm Underwriting
 643 Association as those areas were defined on January 1, 2002, and
 644 for policies that do not provide coverage for the peril of wind
 645 on risks that are located in such areas;

646 (II) A commercial lines account for commercial residential
 647 and commercial nonresidential policies issued by the corporation
 648 which provides coverage for basic property perils on risks that
 649 are not located in areas eligible for coverage by the Florida
 650 Windstorm Underwriting Association as those areas were defined
 651 on January 1, 2002, and for policies that do not provide
 652 coverage for the peril of wind on risks that are located in such
 653 areas; and

654 (III) A coastal account for personal residential policies
 655 and commercial residential and commercial nonresidential
 656 property policies issued by the corporation which provides
 657 coverage for the peril of wind on risks that are located in
 658 areas eligible for coverage by the Florida Windstorm
 659 Underwriting Association as those areas were defined on January
 660 1, 2002. The corporation may offer policies that provide
 661 multiperil coverage and shall offer policies that provide
 662 coverage only for the peril of wind for risks located in areas
 663 eligible for coverage in the coastal account. Effective July 1,
 664 2014, the corporation shall cease offering new commercial
 665 residential policies providing multiperil coverage and shall
 666 instead continue to offer commercial residential wind-only
 667 policies, and may offer commercial residential policies

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668 excluding wind. The corporation may, however, continue to renew
 669 a commercial residential multiperil policy on a building that is
 670 insured by the corporation on June 30, 2014, under a multiperil
 671 policy. In issuing multiperil coverage, the corporation may use
 672 its approved policy forms and rates for the personal lines
 673 account. An applicant or insured who is eligible to purchase a
 674 multiperil policy from the corporation may purchase a multiperil
 675 policy from an authorized insurer without prejudice to the
 676 applicant's or insured's eligibility to prospectively purchase a
 677 policy that provides coverage only for the peril of wind from
 678 the corporation. An applicant or insured who is eligible for a
 679 corporation policy that provides coverage only for the peril of
 680 wind may elect to purchase or retain such policy and also
 681 purchase or retain coverage excluding wind from an authorized
 682 insurer without prejudice to the applicant's or insured's
 683 eligibility to prospectively purchase a policy that provides
 684 multiperil coverage from the corporation. It is the goal of the
 685 Legislature that there be an overall average savings of 10
 686 percent or more for a policyholder who currently has a wind-only
 687 policy with the corporation, and an ex-wind policy with a
 688 voluntary insurer or the corporation, and who obtains a
 689 multiperil policy from the corporation. It is the intent of the
 690 Legislature that the offer of multiperil coverage in the coastal
 691 account be made and implemented in a manner that does not
 692 adversely affect the tax-exempt status of the corporation or
 693 creditworthiness of or security for currently outstanding
 694 financing obligations or credit facilities of the coastal
 695 account, the personal lines account, or the commercial lines
 696 account. The coastal account must also include quota share

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697 primary insurance under subparagraph (c)2. The area eligible for
698 coverage under the coastal account also includes the area within
699 Port Canaveral, which is bordered on the south by the City of
700 Cape Canaveral, bordered on the west by the Banana River, and
701 bordered on the north by Federal Government property.

702 b. The three separate accounts must be maintained as long
703 as financing obligations entered into by the Florida Windstorm
704 Underwriting Association or Residential Property and Casualty
705 Joint Underwriting Association are outstanding, in accordance
706 with the terms of the corresponding financing documents. If no
707 such financing obligations remain outstanding or if the
708 financing documents allow for combining of accounts, the
709 corporation may consolidate the three separate accounts into a
710 new account, to be known as the Citizens account, for all
711 revenues, assets, liabilities, losses, and expenses of the
712 corporation. The Citizens account, if established by the
713 corporation, is authorized to provide coverage to the same
714 extent as provided under each of the three separate accounts.
715 The authority to provide coverage under the Citizens account is
716 set forth in subparagraph 4. If the financing obligations are no
717 longer outstanding, the corporation may use a single account for
718 all revenues, assets, liabilities, losses, and expenses of the
719 corporation. Consistent with this subparagraph and prudent
720 investment policies that minimize the cost of carrying debt, the
721 board shall exercise its best efforts to retire existing debt or
722 obtain the approval of necessary parties to amend the terms of
723 existing debt, so as to structure the most efficient plan for
724 consolidating the three separate accounts into a single account.
725 Once the accounts are combined into one account, this

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726 subparagraph and subparagraph 3. shall be replaced in their
727 entirety by subparagraphs 4. and 5.

728 c. Creditors of the Residential Property and Casualty Joint
729 Underwriting Association and the accounts specified in sub-sub-
730 subparagraphs a.(I) and (II) may have a claim against, and
731 recourse to, those accounts and no claim against, or recourse
732 to, the account referred to in sub-sub-subparagraph a.(III).
733 Creditors of the Florida Windstorm Underwriting Association have
734 a claim against, and recourse to, the account referred to in
735 sub-sub-subparagraph a.(III) and no claim against, or recourse
736 to, the accounts referred to in sub-sub-subparagraphs a.(I) and
737 (II).

738 d. Revenues, assets, liabilities, losses, and expenses not
739 attributable to particular accounts shall be prorated among the
740 accounts.

741 e. The Legislature finds that the revenues of the
742 corporation are revenues that are necessary to meet the
743 requirements set forth in documents authorizing the issuance of
744 bonds under this subsection.

745 f. The income of the corporation may not inure to the
746 benefit of any private person.

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

748 a. After accounting for the Citizens policyholder surcharge
749 imposed under subparagraph i., if the remaining projected
750 deficit incurred in the coastal account in a particular calendar
751 year:

752 (I) Is not greater than 2 percent of the aggregate
753 statewide direct written premium for the subject lines of
754 business for the prior calendar year, the entire deficit shall

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755 be recovered through regular assessments of assessable insurers
756 under paragraph (q) and assessable insureds.

757 (II) Exceeds 2 percent of the aggregate statewide direct
758 written premium for the subject lines of business for the prior
759 calendar year, the corporation shall levy regular assessments on
760 assessable insurers under paragraph (q) and on assessable
761 insureds in an amount equal to the greater of 2 percent of the
762 projected deficit or 2 percent of the aggregate statewide direct
763 written premium for the subject lines of business for the prior
764 calendar year. Any remaining projected deficit shall be
765 recovered through emergency assessments under sub-subparagraph
766 ~~e. d~~.

767 b. Each assessable insurer's share of the amount being
768 assessed under sub-subparagraph a. must be in the proportion
769 that the assessable insurer's direct written premium for the
770 subject lines of business for the year preceding the assessment
771 bears to the aggregate statewide direct written premium for the
772 subject lines of business for that year. The assessment
773 percentage applicable to each assessable insured is the ratio of
774 the amount being assessed under sub-subparagraph a. to the
775 aggregate statewide direct written premium for the subject lines
776 of business for the prior year. Assessments levied by the
777 corporation on assessable insurers under sub-subparagraph a.
778 must be paid as required by the corporation's plan of operation
779 and paragraph (q). Assessments levied by the corporation on
780 assessable insureds under sub-subparagraph a. shall be collected
781 by the surplus lines agent at the time the surplus lines agent
782 collects the surplus lines tax required by s. 626.932, and paid
783 to the Florida Surplus Lines Service Office at the time the

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784 surplus lines agent pays the surplus lines tax to that office.
785 Upon receipt of regular assessments from surplus lines agents,
786 the Florida Surplus Lines Service Office shall transfer the
787 assessments directly to the corporation as determined by the
788 corporation.

789 c. The corporation may not levy regular assessments under
790 paragraph (q) pursuant to sub-subparagraph a. or sub-
791 paragraph b. if the three separate accounts in sub-sub-
792 paragraphs 2.a.(I)-(III) have been consolidated into the
793 Citizens account pursuant to sub-subparagraph 2.b. However, the
794 outstanding balance of any regular assessment levied by the
795 corporation before establishment of the Citizens account remains
796 payable to the corporation.

797 d. After accounting for the Citizens policyholder surcharge
798 imposed under sub-subparagraph j. ~~h~~, the remaining projected
799 deficits in the personal lines account and in the commercial
800 lines account in a particular calendar year shall be recovered
801 through emergency assessments under sub-subparagraph e. ~~d~~

802 e. ~~d~~ Upon a determination by the board of governors that a
803 projected deficit in an account exceeds the amount that is
804 expected to be recovered through regular assessments under sub-
805 paragraph a., plus the amount that is expected to be
806 recovered through surcharges under sub-subparagraph j. ~~h~~, the
807 board, after verification by the office, shall levy emergency
808 assessments for as many years as necessary to cover the
809 deficits, to be collected by assessable insurers and the
810 corporation and collected from assessable insureds upon issuance
811 or renewal of policies for subject lines of business, excluding
812 National Flood Insurance policies. The amount collected in a

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813 particular year must be a uniform percentage of that year's
 814 direct written premium for subject lines of business and all
 815 accounts of the corporation, excluding National Flood Insurance
 816 Program policy premiums, as annually determined by the board and
 817 verified by the office. The office shall verify the arithmetic
 818 calculations involved in the board's determination within 30
 819 days after receipt of the information on which the determination
 820 was based. The office shall notify assessable insurers and the
 821 Florida Surplus Lines Service Office of the date on which
 822 assessable insurers shall begin to collect and assessable
 823 insureds shall begin to pay such assessment. The date must be at
 824 least 90 days after the date the corporation levies emergency
 825 assessments pursuant to this sub-subparagraph. Notwithstanding
 826 any other provision of law, the corporation and each assessable
 827 insurer that writes subject lines of business shall collect
 828 emergency assessments from its policyholders without such
 829 obligation being affected by any credit, limitation, exemption,
 830 or deferment. Emergency assessments levied by the corporation on
 831 assessable insureds shall be collected by the surplus lines
 832 agent at the time the surplus lines agent collects the surplus
 833 lines tax required by s. 626.932 and paid to the Florida Surplus
 834 Lines Service Office at the time the surplus lines agent pays
 835 the surplus lines tax to that office. The emergency assessments
 836 collected shall be transferred directly to the corporation on a
 837 periodic basis as determined by the corporation and held by the
 838 corporation solely in the applicable account. The aggregate
 839 amount of emergency assessments levied for an account in any
 840 calendar year may be less than but may not exceed the greater of
 841 10 percent of the amount needed to cover the deficit, plus

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842 interest, fees, commissions, required reserves, and other costs
 843 associated with financing the original deficit, or 10 percent of
 844 the aggregate statewide direct written premium for subject lines
 845 of business and all accounts of the corporation for the prior
 846 year, plus interest, fees, commissions, required reserves, and
 847 other costs associated with financing the deficit.
 848 f.e. The corporation may pledge the proceeds of
 849 assessments, projected recoveries from the Florida Hurricane
 850 Catastrophe Fund, other insurance and reinsurance recoverables,
 851 policyholder surcharges and other surcharges, and other funds
 852 available to the corporation as the source of revenue for and to
 853 secure bonds issued under paragraph (q), bonds or other
 854 indebtedness issued under subparagraph (c)3., or lines of credit
 855 or other financing mechanisms issued or created under this
 856 subsection, or to retire any other debt incurred as a result of
 857 deficits or events giving rise to deficits, or in any other way
 858 that the board determines will efficiently recover such
 859 deficits. The purpose of the lines of credit or other financing
 860 mechanisms is to provide additional resources to assist the
 861 corporation in covering claims and expenses attributable to a
 862 catastrophe. As used in this subsection, the term "assessments"
 863 includes regular assessments under sub-subparagraph a. or
 864 subparagraph (q)1. and emergency assessments under sub-
 865 subparagraph e. ~~d.~~ Emergency assessments collected under sub-
 866 subparagraph e. ~~d.~~ are not part of an insurer's rates, are not
 867 premium, and are not subject to premium tax, fees, or
 868 commissions; however, failure to pay the emergency assessment
 869 shall be treated as failure to pay premium. The emergency
 870 assessments shall continue as long as any bonds issued or other

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871 indebtedness incurred with respect to a deficit for which the
872 assessment was imposed remain outstanding, unless adequate
873 provision has been made for the payment of such bonds or other
874 indebtedness pursuant to the documents governing such bonds or
875 indebtedness.

876 ~~g.f.~~ As used in this subsection for purposes of any deficit
877 incurred on or after January 25, 2007, the term "subject lines
878 of business" means insurance written by assessable insurers or
879 procured by assessable insureds for all property and casualty
880 lines of business in this state, but not including workers'
881 compensation or medical malpractice. As used in this sub-
882 subparagraph, the term "property and casualty lines of business"
883 includes all lines of business identified on Form 2, Exhibit of
884 Premiums and Losses, in the annual statement required of
885 authorized insurers under s. 624.424 and any rule adopted under
886 this section, except for those lines identified as accident and
887 health insurance and except for policies written under the
888 National Flood Insurance Program or the Federal Crop Insurance
889 Program. For purposes of this sub-subparagraph, the term
890 "workers' compensation" includes both workers' compensation
891 insurance and excess workers' compensation insurance.

892 ~~h.g.~~ The Florida Surplus Lines Service Office shall
893 determine annually the aggregate statewide written premium in
894 subject lines of business procured by assessable insureds and
895 report that information to the corporation in a form and at a
896 time the corporation specifies to ensure that the corporation
897 can meet the requirements of this subsection and the
898 corporation's financing obligations.

899 ~~i.h.~~ The Florida Surplus Lines Service Office shall verify

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900 the proper application by surplus lines agents of assessment
901 percentages for regular assessments and emergency assessments
902 levied under this subparagraph on assessable insureds and assist
903 the corporation in ensuring the accurate, timely collection and
904 payment of assessments by surplus lines agents as required by
905 the corporation.

906 ~~j.i.~~ Upon determination by the board of governors that an
907 account has a projected deficit, the board shall levy a Citizens
908 policyholder surcharge against all policyholders of the
909 corporation.

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

913 (II) The surcharge is payable upon cancellation or
914 termination of the policy, upon renewal of the policy, or upon
915 issuance of a new policy by the corporation within the first 12
916 months after the date of the levy or the period of time
917 necessary to fully collect the surcharge amount.

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

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

926 ~~k.j.~~ If the amount of any assessments or surcharges
927 collected from corporation policyholders, assessable insurers or
928 their policyholders, or assessable insureds exceeds the amount

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929 of the deficits, such excess amounts shall be remitted to and
 930 retained by the corporation in a reserve to be used by the
 931 corporation, as determined by the board of governors and
 932 approved by the office, to pay claims or reduce any past,
 933 present, or future plan-year deficits or to reduce outstanding
 934 debt.

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

937 a. Personal residential policies that provide
 938 comprehensive, multiperil coverage on risks that are not located
 939 in areas eligible for coverage by the Florida Windstorm
 940 Underwriting Association, as those areas were defined on January
 941 1, 2002, and for policies that do not provide coverage for the
 942 peril of wind on risks that are located in such areas;

943 b. Commercial residential and commercial nonresidential
 944 policies that provide coverage for basic property perils on
 945 risks that are not located in areas eligible for coverage by the
 946 Florida Windstorm Underwriting Association, as those areas were
 947 defined on January 1, 2002, and for policies that do not provide
 948 coverage for the peril of wind on risks that are located in such
 949 areas; and

950 c. Personal residential policies and commercial residential
 951 and commercial nonresidential property policies that provide
 952 coverage for the peril of wind on risks that are located in
 953 areas eligible for coverage by the Florida Windstorm
 954 Underwriting Association, as those areas were defined on January
 955 1, 2002. The corporation may offer policies that provide
 956 multiperil coverage and shall offer policies that provide
 957 coverage only for the peril of wind for risks located in areas

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958 eligible for coverage by the Florida Windstorm Underwriting
 959 Association, as those areas were defined on January 1, 2002. The
 960 corporation may not offer new commercial residential policies
 961 providing multiperil coverage, but shall continue to offer
 962 commercial residential wind-only policies, and may offer
 963 commercial residential policies excluding wind. However, the
 964 corporation may continue to renew a commercial residential
 965 multiperil policy on a building that was insured by the
 966 corporation on June 30, 2014, under a multiperil policy. In
 967 issuing multiperil coverage under this sub-subparagraph, the
 968 corporation may use its approved policy forms and rates for
 969 risks located in areas not eligible for coverage by the Florida
 970 Windstorm Underwriting Association as those areas were defined
 971 on January 1, 2002, and for policies that do not provide
 972 coverage for the peril of wind on risks that are located in such
 973 areas. An applicant or insured who is eligible to purchase a
 974 multiperil policy from the corporation may purchase a multiperil
 975 policy from an authorized insurer without prejudice to the
 976 applicant's or insured's eligibility to prospectively purchase a
 977 policy that provides coverage only for the peril of wind from
 978 the corporation. An applicant or insured who is eligible for a
 979 corporation policy that provides coverage only for the peril of
 980 wind may elect to purchase or retain such policy and also
 981 purchase or retain coverage excluding wind from an authorized
 982 insurer without prejudice to the applicant's or insured's
 983 eligibility to prospectively purchase a policy that provides
 984 multiperil coverage from the corporation. The following
 985 policies, which provide coverage only for the peril of wind,
 986 must also include quota share primary insurance under

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 987 subparagraph (c)2.: Personal residential policies and commercial
 988 residential and commercial nonresidential property policies that
 989 provide coverage for the peril of wind on risks that are located
 990 in areas eligible for coverage by the Florida Windstorm
 991 Underwriting Association, as those areas were defined on January
 992 1, 2002; policies that provide multiperil coverage, if offered
 993 by the corporation, and policies that provide coverage only for
 994 the peril of wind for risks located in areas eligible for
 995 coverage by the Florida Windstorm Underwriting Association, as
 996 those areas were defined on January 1, 2002; commercial
 997 residential wind-only policies; commercial residential policies
 998 excluding wind, if offered by the corporation; and commercial
 999 residential multiperil policies on a building that was insured
 1000 by the corporation on June 30, 2014. The area eligible for
 1001 coverage with the corporation under this sub-subparagraph
 1002 includes the area within Port Canaveral, which is bordered on
 1003 the south by the City of Cape Canaveral, bordered on the west by
 1004 the Banana River, and bordered on the north by Federal
 1005 Government property.

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

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

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

(II) The surcharge is payable upon cancellation or
 termination of the policy, upon renewal of the policy, or upon

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 1016 issuance of a new policy by the corporation within the first 12
 1017 months after the date of the levy or the period of time
 1018 necessary to fully collect the surcharge amount.
 1019 (III) The surcharge is not considered premium and is not
 1020 subject to commissions, fees, or premium taxes. However, failure
 1021 to pay the surcharge shall be treated as failure to pay premium.
 1022 b. After accounting for the Citizens policyholder surcharge
 1023 imposed under sub-subparagraph a., the remaining projected
 1024 deficit incurred in the Citizens account in a particular
 1025 calendar year shall be recovered through emergency assessments
 1026 under sub-subparagraph c.
 1027 c. Upon a determination by the board of governors that a
 1028 projected deficit in the Citizens account exceeds the amount
 1029 that is expected to be recovered through surcharges under sub-
 1030 paragraph a., the board, after verification by the office,
 1031 shall levy emergency assessments for as many years as necessary
 1032 to cover the deficits, to be collected by assessable insurers
 1033 and the corporation and collected from assessable insureds upon
 1034 issuance or renewal of policies for subject lines of business,
 1035 excluding National Flood Insurance Program policies. The amount
 1036 collected in a particular year must be a uniform percentage of
 1037 that year's direct written premium for subject lines of business
 1038 and the Citizens account, National Flood Insurance Program
 1039 policy premiums, as annually determined by the board and
 1040 verified by the office. The office shall verify the arithmetic
 1041 calculations involved in the board's determination within 30
 1042 days after receipt of the information on which the determination
 1043 was based. The office shall notify assessable insurers and the
 1044 Florida Surplus Lines Service Office of the date on which

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1045 assessable insurers shall begin to collect and assessable
 1046 insureds shall begin to pay such assessment. The date must be at
 1047 least 90 days after the date the corporation levies emergency
 1048 assessments pursuant to this sub-subparagraph. Notwithstanding
 1049 any other law, the corporation and each assessable insurer that
 1050 writes subject lines of business shall collect emergency
 1051 assessments from its policyholders without such obligation being
 1052 affected by any credit, limitation, exemption, or deferment.
 1053 Emergency assessments levied by the corporation on assessable
 1054 insureds shall be collected by the surplus lines agent at the
 1055 time the surplus lines agent collects the surplus lines tax
 1056 required by s. 626.932 and paid to the Florida Surplus Lines
 1057 Service Office at the time the surplus lines agent pays the
 1058 surplus lines tax to that office. The emergency assessments
 1059 collected shall be transferred directly to the corporation on a
 1060 periodic basis as determined by the corporation and held by the
 1061 corporation solely in the Citizens account. The aggregate amount
 1062 of emergency assessments levied for the Citizens account in any
 1063 calendar year may be less than, but may not exceed the greater
 1064 of, 10 percent of the amount needed to cover the deficit, plus
 1065 interest, fees, commissions, required reserves, and other costs
 1066 associated with financing the original deficit or 10 percent of
 1067 the aggregate statewide direct written premium for subject lines
 1068 of business and the Citizens accounts for the prior year, plus
 1069 interest, fees, commissions, required reserves, and other costs
 1070 associated with financing the deficit.
 1071 d. The corporation may pledge the proceeds of assessments,
 1072 projected recoveries from the Florida Hurricane Catastrophe
 1073 Fund, other insurance and reinsurance recoverables, policyholder

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1074 surcharges and other surcharges, and other funds available to
 1075 the corporation as the source of revenue for and to secure bonds
 1076 issued under paragraph (q), bonds or other indebtedness issued
 1077 under subparagraph (c)3., or lines of credit or other financing
 1078 mechanisms issued or created under this subsection; or to retire
 1079 any other debt incurred as a result of deficits or events giving
 1080 rise to deficits, or in any other way that the board determines
 1081 will efficiently recover such deficits. The purpose of the lines
 1082 of credit or other financing mechanisms is to provide additional
 1083 resources to assist the corporation in covering claims and
 1084 expenses attributable to a catastrophe. As used in this
 1085 subsection, the term "assessments" includes emergency
 1086 assessments under sub-subparagraph c. Emergency assessments
 1087 collected under sub-subparagraph c. are not part of an insurer's
 1088 rates, are not premium, and are not subject to premium tax,
 1089 fees, or commissions; however, failure to pay the emergency
 1090 assessment shall be treated as failure to pay premium. The
 1091 emergency assessments shall continue as long as any bonds issued
 1092 or other indebtedness incurred with respect to a deficit for
 1093 which the assessment was imposed remain outstanding, unless
 1094 adequate provision has been made for the payment of such bonds
 1095 or other indebtedness pursuant to the documents governing such
 1096 bonds or indebtedness.
 1097 e. As used in this subsection and for purposes of any
 1098 deficit incurred on or after January 25, 2007, the term "subject
 1099 lines of business" means insurance written by assessable
 1100 insurers or procured by assessable insureds for all property and
 1101 casualty lines of business in this state, but not including
 1102 workers' compensation or medical malpractice. As used in this

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1103 sub-subparagraph, the term "property and casualty lines of
 1104 business" includes all lines of business identified on Form 2,
 1105 Exhibit of Premiums and Losses, in the annual statement required
 1106 of authorized insurers under s. 624.424 and any rule adopted
 1107 under this section, except for those lines identified as
 1108 accident and health insurance and except for policies written
 1109 under the National Flood Insurance Program or the Federal Crop
 1110 Insurance Program. For purposes of this sub-subparagraph, the
 1111 term "workers' compensation" includes both workers' compensation
 1112 insurance and excess workers' compensation insurance.

1113 f. The Florida Surplus Lines Service Office shall annually
 1114 determine the aggregate statewide written premium in subject
 1115 lines of business procured by assessable insureds and report
 1116 that information to the corporation in a form and at a time the
 1117 corporation specifies to ensure that the corporation can meet
 1118 the requirements of this subsection and the corporation's
 1119 financing obligations.

1120 g. The Florida Surplus Lines Service Office shall verify
 1121 the proper application by surplus lines agents of assessment
 1122 percentages for emergency assessments levied under this
 1123 subparagraph on assessable insureds and assist the corporation
 1124 in ensuring the accurate, timely collection and payment of
 1125 assessments by surplus lines agents as required by the
 1126 corporation.

1127 h. If the amount of any assessments or surcharges collected
 1128 from corporation policyholders, assessable insurers or their
 1129 policyholders, or assessable insureds exceeds the amount of the
 1130 deficits, such excess amounts shall be remitted to and retained
 1131 by the corporation in a reserve to be used by the corporation,

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1132 as determined by the board of governors and approved by the
 1133 office, to pay claims or reduce any past, present, or future
 1134 plan-year deficits or to reduce outstanding debt.

1135 (c) The corporation's plan of operation:

1136 1. Must provide for adoption of residential property and
 1137 casualty insurance policy forms and commercial residential and
 1138 nonresidential property insurance forms, which must be approved
 1139 by the office before use. The corporation shall adopt the
 1140 following policy forms:

1141 a. Standard personal lines policy forms that are
 1142 comprehensive multiperil policies providing full coverage of a
 1143 residential property equivalent to the coverage provided in the
 1144 private insurance market under an HO-3, HO-4, or HO-6 policy.

1145 b. Basic personal lines policy forms that are policies
 1146 similar to an HO-8 policy or a dwelling fire policy that provide
 1147 coverage meeting the requirements of the secondary mortgage
 1148 market, but which is more limited than the coverage under a
 1149 standard policy.

1150 c. Commercial lines residential and nonresidential policy
 1151 forms that are generally similar to the basic perils of full
 1152 coverage obtainable for commercial residential structures and
 1153 commercial nonresidential structures in the admitted voluntary
 1154 market.

1155 d. Personal lines and commercial lines residential property
 1156 insurance forms that cover the peril of wind only. The forms are
 1157 applicable only to residential properties located in areas
 1158 eligible for coverage by the Florida Windstorm Underwriting
 1159 Association, as those areas were defined on January 1, 2002
 1160 ~~under the coastal account referred to in sub-subparagraph~~

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1161 ~~(b)2.a.~~

1162 e. Commercial lines nonresidential property insurance forms
1163 that cover the peril of wind only. The forms are applicable only
1164 to nonresidential properties located in areas eligible for
1165 coverage by the Florida Windstorm Underwriting Association, as
1166 those areas were defined on January 1, 2002 under the coastal
1167 ~~account referred to in sub-subparagraph (b)2.a.~~

1168 f. The corporation may adopt variations of the policy forms
1169 listed in sub-subparagraphs a.-e. which contain more restrictive
1170 coverage.

1171 g. ~~Effective January 1, 2013,~~ The corporation shall offer a
1172 basic personal lines policy similar to an HO-8 policy with
1173 dwelling repair based on common construction materials and
1174 methods.

1175 2. Must provide that the corporation adopt a program in
1176 which the corporation and authorized insurers enter into quota
1177 share primary insurance agreements for hurricane coverage, as
1178 defined in s. 627.4025(2)(a), for eligible risks, and adopt
1179 property insurance forms for eligible risks which cover the
1180 peril of wind only.

1181 a. As used in this subsection, the term:

1182 (I) "Quota share primary insurance" means an arrangement in
1183 which the primary hurricane coverage of an eligible risk is
1184 provided in specified percentages by the corporation and an
1185 authorized insurer. The corporation and authorized insurer are
1186 each solely responsible for a specified percentage of hurricane
1187 coverage of an eligible risk as set forth in a quota share
1188 primary insurance agreement between the corporation and an
1189 authorized insurer and the insurance contract. The

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1190 responsibility of the corporation or authorized insurer to pay
1191 its specified percentage of hurricane losses of an eligible
1192 risk, as set forth in the agreement, may not be altered by the
1193 inability of the other party to pay its specified percentage of
1194 losses. Eligible risks that are provided hurricane coverage
1195 through a quota share primary insurance arrangement must be
1196 provided policy forms that set forth the obligations of the
1197 corporation and authorized insurer under the arrangement,
1198 clearly specify the percentages of quota share primary insurance
1199 provided by the corporation and authorized insurer, and
1200 conspicuously and clearly state that the authorized insurer and
1201 the corporation may not be held responsible beyond their
1202 specified percentage of coverage of hurricane losses.

1203 (II) "Eligible risks" means personal lines residential and
1204 commercial lines residential risks that meet the underwriting
1205 criteria of the corporation and are located in areas that were
1206 eligible for coverage by the Florida Windstorm Underwriting
1207 Association on January 1, 2002.

1208 b. The corporation may enter into quota share primary
1209 insurance agreements with authorized insurers at corporation
1210 coverage levels of 90 percent and 50 percent.

1211 c. If the corporation determines that additional coverage
1212 levels are necessary to maximize participation in quota share
1213 primary insurance agreements by authorized insurers, the
1214 corporation may establish additional coverage levels. However,
1215 the corporation's quota share primary insurance coverage level
1216 may not exceed 90 percent.

1217 d. Any quota share primary insurance agreement entered into
1218 between an authorized insurer and the corporation must provide

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1219 for a uniform specified percentage of coverage of hurricane
 1220 losses, by county or territory as set forth by the corporation
 1221 board, for all eligible risks of the authorized insurer covered
 1222 under the agreement.

1223 e. Any quota share primary insurance agreement entered into
 1224 between an authorized insurer and the corporation is subject to
 1225 review and approval by the office. However, such agreement shall
 1226 be authorized only as to insurance contracts entered into
 1227 between an authorized insurer and an insured who is already
 1228 insured by the corporation for wind coverage.

1229 f. For all eligible risks covered under quota share primary
 1230 insurance agreements, the exposure and coverage levels for both
 1231 the corporation and authorized insurers shall be reported by the
 1232 corporation to the Florida Hurricane Catastrophe Fund. For all
 1233 policies of eligible risks covered under such agreements, the
 1234 corporation and the authorized insurer must maintain complete
 1235 and accurate records for the purpose of exposure and loss
 1236 reimbursement audits as required by fund rules. The corporation
 1237 and the authorized insurer shall each maintain duplicate copies
 1238 of policy declaration pages and supporting claims documents.

1239 g. The corporation board shall establish in its plan of
 1240 operation standards for quota share agreements which ensure that
 1241 there is no discriminatory application among insurers as to the
 1242 terms of the agreements, pricing of the agreements, incentive
 1243 provisions if any, and consideration paid for servicing policies
 1244 or adjusting claims.

1245 h. The quota share primary insurance agreement between the
 1246 corporation and an authorized insurer must set forth the
 1247 specific terms under which coverage is provided, including, but

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1248 not limited to, the sale and servicing of policies issued under
 1249 the agreement by the insurance agent of the authorized insurer
 1250 producing the business, the reporting of information concerning
 1251 eligible risks, the payment of premium to the corporation, and
 1252 arrangements for the adjustment and payment of hurricane claims
 1253 incurred on eligible risks by the claims adjuster and personnel
 1254 of the authorized insurer. Entering into a quota sharing
 1255 insurance agreement between the corporation and an authorized
 1256 insurer is voluntary and at the discretion of the authorized
 1257 insurer.

1258 3. May provide that the corporation may employ or otherwise
 1259 contract with individuals or other entities to provide
 1260 administrative or professional services that may be appropriate
 1261 to effectuate the plan. The corporation may borrow funds by
 1262 issuing bonds or by incurring other indebtedness, and shall have
 1263 other powers reasonably necessary to effectuate the requirements
 1264 of this subsection, including, without limitation, the power to
 1265 issue bonds and incur other indebtedness in order to refinance
 1266 outstanding bonds or other indebtedness. The corporation may
 1267 seek judicial validation of its bonds or other indebtedness
 1268 under chapter 75. The corporation may issue bonds or incur other
 1269 indebtedness, or have bonds issued on its behalf by a unit of
 1270 local government pursuant to subparagraph (q)2. in the absence
 1271 of a hurricane or other weather-related event, upon a
 1272 determination by the corporation, subject to approval by the
 1273 office, that such action would enable it to efficiently meet the
 1274 financial obligations of the corporation and that such
 1275 financings are reasonably necessary to effectuate the
 1276 requirements of this subsection. The corporation may take all

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1277 actions needed to facilitate tax-free status for such bonds or
 1278 indebtedness, including formation of trusts or other affiliated
 1279 entities. The corporation may pledge assessments, projected
 1280 recoveries from the Florida Hurricane Catastrophe Fund, other
 1281 reinsurance recoverables, policyholder surcharges and other
 1282 surcharges, and other funds available to the corporation as
 1283 security for bonds or other indebtedness. In recognition of s.
 1284 10, Art. I of the State Constitution, prohibiting the impairment
 1285 of obligations of contracts, it is the intent of the Legislature
 1286 that no action be taken whose purpose is to impair any bond
 1287 indenture or financing agreement or any revenue source committed
 1288 by contract to such bond or other indebtedness.

1289 4. Must require that the corporation operate subject to the
 1290 supervision and approval of a board of governors consisting of
 1291 nine individuals who are residents of this state and who are
 1292 from different geographical areas of the state, one of whom is
 1293 appointed by the Governor and serves solely to advocate on
 1294 behalf of the consumer. The appointment of a consumer
 1295 representative by the Governor is deemed to be within the scope
 1296 of the exemption provided in s. 112.313(7) (b) and is in addition
 1297 to the appointments authorized under sub-subparagraph a.

1298 a. The Governor, the Chief Financial Officer, the President
 1299 of the Senate, and the Speaker of the House of Representatives
 1300 shall each appoint two members of the board. At least one of the
 1301 two members appointed by each appointing officer must have
 1302 demonstrated expertise in insurance and be deemed to be within
 1303 the scope of the exemption provided in s. 112.313(7) (b). The
 1304 Chief Financial Officer shall designate one of the appointees as
 1305 chair. All board members serve at the pleasure of the appointing

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1306 officer. All members of the board are subject to removal at will
 1307 by the officers who appointed them. All board members, including
 1308 the chair, must be appointed to serve for 3-year terms beginning
 1309 annually on a date designated by the plan. However, for the
 1310 first term beginning on or after July 1, 2009, each appointing
 1311 officer shall appoint one member of the board for a 2-year term
 1312 and one member for a 3-year term. A board vacancy shall be
 1313 filled for the unexpired term by the appointing officer. The
 1314 Chief Financial Officer shall appoint a technical advisory group
 1315 to provide information and advice to the board in connection
 1316 with the board's duties under this subsection. The executive
 1317 director and senior managers of the corporation shall be engaged
 1318 by the board and serve at the pleasure of the board. Any
 1319 executive director appointed on or after July 1, 2006, is
 1320 subject to confirmation by the Senate. The executive director is
 1321 responsible for employing other staff as the corporation may
 1322 require, subject to review and concurrence by the board.

1323 b. The board shall create a Market Accountability Advisory
 1324 Committee to assist the corporation in developing awareness of
 1325 its rates and its customer and agent service levels in
 1326 relationship to the voluntary market insurers writing similar
 1327 coverage.

1328 (I) The members of the advisory committee consist of the
 1329 following 11 persons, one of whom must be elected chair by the
 1330 members of the committee: four representatives, one appointed by
 1331 the Florida Association of Insurance Agents, one by the Florida
 1332 Association of Insurance and Financial Advisors, one by the
 1333 Professional Insurance Agents of Florida, and one by the Latin
 1334 American Association of Insurance Agencies; three

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1335 representatives appointed by the insurers with the three highest
 1336 voluntary market share of residential property insurance
 1337 business in the state; one representative from the Office of
 1338 Insurance Regulation; one consumer appointed by the board who is
 1339 insured by the corporation at the time of appointment to the
 1340 committee; one representative appointed by the Florida
 1341 Association of Realtors; and one representative appointed by the
 1342 Florida Bankers Association. All members shall be appointed to
 1343 3-year terms and may serve for consecutive terms.

1344 (II) The committee shall report to the corporation at each
 1345 board meeting on insurance market issues which may include rates
 1346 and rate competition with the voluntary market; service,
 1347 including policy issuance, claims processing, and general
 1348 responsiveness to policyholders, applicants, and agents; and
 1349 matters relating to depopulation.

1350 5. Must provide a procedure for determining the eligibility
 1351 of a risk for coverage, as follows:

1352 a. Subject to s. 627.3517, with respect to personal lines
 1353 residential risks, if the risk is offered coverage from an
 1354 authorized insurer at the insurer's approved rate under a
 1355 standard policy including wind coverage or, if consistent with
 1356 the insurer's underwriting rules as filed with the office, a
 1357 basic policy including wind coverage, for a new application to
 1358 the corporation for coverage, the risk is not eligible for any
 1359 policy issued by the corporation unless the premium for coverage
 1360 from the authorized insurer is more than 20 percent greater than
 1361 the premium for comparable coverage from the corporation.
 1362 Whenever an offer of coverage for a personal lines residential
 1363 risk is received for a policyholder of the corporation at

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1364 renewal from an authorized insurer, if the offer is equal to or
 1365 less than the corporation's renewal premium for comparable
 1366 coverage, the risk is not eligible for coverage with the
 1367 corporation for policies that renew before April 1, 2023; for
 1368 policies that renew on or after that date, the risk is not
 1369 eligible for coverage with the corporation unless the premium
 1370 for coverage from the authorized insurer is more than 20 percent
 1371 greater than the corporation's renewal premium for comparable
 1372 coverage. If the risk is not able to obtain such offer, the risk
 1373 is eligible for a standard policy including wind coverage or a
 1374 basic policy including wind coverage issued by the corporation;
 1375 however, if the risk could not be insured under a standard
 1376 policy including wind coverage regardless of market conditions,
 1377 the risk is eligible for a basic policy including wind coverage
 1378 unless rejected under subparagraph 8. ~~However, a policyholder~~
 1379 ~~removed from the corporation through an assumption agreement~~
 1380 ~~remains eligible for coverage from the corporation until the end~~
 1381 ~~of the assumption period.~~ The corporation shall determine the
 1382 type of policy to be provided on the basis of objective
 1383 standards specified in the underwriting manual and based on
 1384 generally accepted underwriting practices. A policyholder
 1385 removed from the corporation through an assumption agreement
 1386 does not remain eligible for coverage from the corporation after
 1387 the end of the policy term. However, any policy removed from the
 1388 corporation through an assumption agreement remains on the
 1389 corporation's policy forms through the end of the policy term.

1390 (I) If the risk accepts an offer of coverage through the
 1391 market assistance plan or through a mechanism established by the
 1392 corporation other than a plan established by s. 627.3518, before

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1393 a policy is issued to the risk by the corporation or during the
 1394 first 30 days of coverage by the corporation, and the producing
 1395 agent who submitted the application to the plan or to the
 1396 corporation is not currently appointed by the insurer, the
 1397 insurer shall:

1398 (A) Pay to the producing agent of record of the policy for
 1399 the first year, an amount that is the greater of the insurer's
 1400 usual and customary commission for the type of policy written or
 1401 a fee equal to the usual and customary commission of the
 1402 corporation; or

1403 (B) Offer to allow the producing agent of record of the
 1404 policy to continue servicing the policy for at least 1 year and
 1405 offer to pay the agent the greater of the insurer's or the
 1406 corporation's usual and customary commission for the type of
 1407 policy written.

1408

1409 If the producing agent is unwilling or unable to accept
 1410 appointment, the new insurer shall pay the agent in accordance
 1411 with sub-sub-sub-subparagraph (A).

1412 (II) If the corporation enters into a contractual agreement
 1413 for a take-out plan, the producing agent of record of the
 1414 corporation policy is entitled to retain any unearned commission
 1415 on the policy, and the insurer shall:

1416 (A) Pay to the producing agent of record, for the first
 1417 year, an amount that is the greater of the insurer's usual and
 1418 customary commission for the type of policy written or a fee
 1419 equal to the usual and customary commission of the corporation;
 1420 or

1421 (B) Offer to allow the producing agent of record to

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1422 continue servicing the policy for at least 1 year and offer to
 1423 pay the agent the greater of the insurer's or the corporation's
 1424 usual and customary commission for the type of policy written.
 1425

1426 If the producing agent is unwilling or unable to accept
 1427 appointment, the new insurer shall pay the agent in accordance
 1428 with sub-sub-sub-subparagraph (A).

1429 b. With respect to commercial lines residential risks, for
 1430 a new application to the corporation for coverage, if the risk
 1431 is offered coverage under a policy including wind coverage from
 1432 an authorized insurer at its approved rate, the risk is not
 1433 eligible for a policy issued by the corporation unless the
 1434 premium for coverage from the authorized insurer is more than 20
 1435 ~~15~~ percent greater than the premium for comparable coverage from
 1436 the corporation. Whenever an offer of coverage for a commercial
 1437 lines residential risk is received for a policyholder of the
 1438 corporation at renewal from an authorized insurer, ~~if the offer~~
 1439 ~~is equal to or less than the corporation's renewal premium for~~
 1440 ~~comparable coverage,~~ the risk is not eligible for coverage with
 1441 the corporation unless the premium for coverage from the
 1442 authorized insurer is more than 20 percent greater than the
 1443 corporation's renewal premium for comparable coverage. If the
 1444 risk is not able to obtain any such offer, the risk is eligible
 1445 for a policy including wind coverage issued by the corporation.
 1446 ~~However,~~ A policyholder removed from the corporation through an
 1447 assumption agreement remains eligible for coverage from the
 1448 corporation until the end of the policy term. ~~However, any~~
 1449 policy removed from the corporation through an assumption
 1450 agreement remains on the corporation's policy forms through the

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1451 ~~end of the policy term assumption period.~~

1452 (I) If the risk accepts an offer of coverage through the
1453 market assistance plan or through a mechanism established by the
1454 corporation other than a plan established by s. 627.3518, before
1455 a policy is issued to the risk by the corporation or during the
1456 first 30 days of coverage by the corporation, and the producing
1457 agent who submitted the application to the plan or the
1458 corporation is not currently appointed by the insurer, the
1459 insurer shall:

1460 (A) Pay to the producing agent of record of the policy, for
1461 the first year, an amount that is the greater of the insurer's
1462 usual and customary commission for the type of policy written or
1463 a fee equal to the usual and customary commission of the
1464 corporation; or

1465 (B) Offer to allow the producing agent of record of the
1466 policy to continue servicing the policy for at least 1 year and
1467 offer to pay the agent the greater of the insurer's or the
1468 corporation's usual and customary commission for the type of
1469 policy written.

1470
1471 If the producing agent is unwilling or unable to accept
1472 appointment, the new insurer shall pay the agent in accordance
1473 with sub-sub-sub-subparagraph (A).

1474 (II) If the corporation enters into a contractual agreement
1475 for a take-out plan, the producing agent of record of the
1476 corporation policy is entitled to retain any unearned commission
1477 on the policy, and the insurer shall:

1478 (A) Pay to the producing agent of record, for the first
1479 year, an amount that is the greater of the insurer's usual and

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1480 customary commission for the type of policy written or a fee
1481 equal to the usual and customary commission of the corporation;
1482 or

1483 (B) Offer to allow the producing agent of record to
1484 continue servicing the policy for at least 1 year and offer to
1485 pay the agent the greater of the insurer's or the corporation's
1486 usual and customary commission for the type of policy written.

1487
1488 If the producing agent is unwilling or unable to accept
1489 appointment, the new insurer shall pay the agent in accordance
1490 with sub-sub-sub-subparagraph (A).

1491 c. For purposes of determining comparable coverage under
1492 sub-subparagraphs a. and b., the comparison must be based on
1493 those forms and coverages that are reasonably comparable. The
1494 corporation may rely on a determination of comparable coverage
1495 and premium made by the producing agent who submits the
1496 application to the corporation, made in the agent's capacity as
1497 the corporation's agent. For purposes of comparing the premium
1498 for comparable coverage under sub-subparagraphs a. and b.,
1499 premium includes any surcharge or assessment that is actually
1500 applied to such policy. A comparison may be made solely of the
1501 premium with respect to the main building or structure only on
1502 the following basis: the same coverage A or other building
1503 limits; the same percentage hurricane deductible that applies on
1504 an annual basis or that applies to each hurricane for commercial
1505 residential property; the same percentage of ordinance and law
1506 coverage, if the same limit is offered by both the corporation
1507 and the authorized insurer; the same mitigation credits, to the
1508 extent the same types of credits are offered both by the

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1509 corporation and the authorized insurer; the same method for loss
 1510 payment, such as replacement cost or actual cash value, if the
 1511 same method is offered both by the corporation and the
 1512 authorized insurer in accordance with underwriting rules; and
 1513 any other form or coverage that is reasonably comparable as
 1514 determined by the board. If an application is submitted to the
 1515 corporation for wind-only coverage on a risk that is located in
 1516 an area eligible for coverage by the Florida Windstorm
 1517 Underwriting Association, as that area was defined on January 1,
 1518 2002 in the coastal account, the premium for the corporation's
 1519 wind-only policy plus the premium for the ex-wind policy that is
 1520 offered by an authorized insurer to the applicant must be
 1521 compared to the premium for multiperil coverage offered by an
 1522 authorized insurer, subject to the standards for comparison
 1523 specified in this subparagraph. If the corporation or the
 1524 applicant requests from the authorized insurer a breakdown of
 1525 the premium of the offer by types of coverage so that a
 1526 comparison may be made by the corporation or its agent and the
 1527 authorized insurer refuses or is unable to provide such
 1528 information, the corporation may treat the offer as not being an
 1529 offer of coverage from an authorized insurer at the insurer's
 1530 approved rate.

1531 6. Must include rules for classifications of risks and
 1532 rates.

1533 7. Must provide that if premium and investment income:
 1534 a. For an account attributable to a particular calendar
 1535 year are in excess of projected losses and expenses for the
 1536 account attributable to that year, such excess shall be held in
 1537 surplus in the account. Such surplus must be available to defray

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1538 deficits in that account as to future years and used for that
 1539 purpose before assessing assessable insurers and assessable
 1540 insureds as to any calendar year; or
 1541 b. For the Citizens account, if established by the
 1542 corporation, which are attributable to a particular calendar
 1543 year are in excess of projected losses and expenses for the
 1544 Citizens account attributable to that year, such excess shall be
 1545 held in surplus in the Citizens account. Such surplus must be
 1546 available to defray deficits in the Citizens account as to
 1547 future years and used for that purpose before assessing
 1548 assessable insurers and assessable insureds as to any calendar
 1549 year.

1550 8. Must provide objective criteria and procedures to be
 1551 uniformly applied to all applicants in determining whether an
 1552 individual risk is so hazardous as to be uninsurable. In making
 1553 this determination and in establishing the criteria and
 1554 procedures, the following must be considered:

1555 a. Whether the likelihood of a loss for the individual risk
 1556 is substantially higher than for other risks of the same class;
 1557 and

1558 b. Whether the uncertainty associated with the individual
 1559 risk is such that an appropriate premium cannot be determined.

1560

1561 The acceptance or rejection of a risk by the corporation shall
 1562 be construed as the private placement of insurance, and the
 1563 provisions of chapter 120 do not apply.

1564 9. Must provide that the corporation make its best efforts
 1565 to procure catastrophe reinsurance at reasonable rates, to cover
 1566 its projected 100-year probable maximum loss as determined by

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1567 the board of governors. If catastrophe reinsurance is not
 1568 available at reasonable rates, the corporation need not purchase
 1569 it, but the corporation shall include the costs of reinsurance
 1570 to cover its projected 100-year probable maximum loss in its
 1571 rate calculations even if it does not purchase catastrophe
 1572 reinsurance.

1573 10. The policies issued by the corporation must provide
 1574 that if the corporation or the market assistance plan obtains an
 1575 offer from an authorized insurer to cover the risk at its
 1576 approved rates, the risk is no longer eligible for renewal
 1577 through the corporation, except as otherwise provided in this
 1578 subsection.

1579 11. Corporation policies and applications must include a
 1580 notice that the corporation policy could, under this section, be
 1581 replaced with a policy issued by an authorized insurer which
 1582 does not provide coverage identical to the coverage provided by
 1583 the corporation. The notice must also specify that acceptance of
 1584 corporation coverage creates a conclusive presumption that the
 1585 applicant or policyholder is aware of this potential.

1586 12. May establish, subject to approval by the office,
 1587 different eligibility requirements and operational procedures
 1588 for any line or type of coverage for any specified county or
 1589 area if the board determines that such changes are justified due
 1590 to the voluntary market being sufficiently stable and
 1591 competitive in such area or for such line or type of coverage
 1592 and that consumers who, in good faith, are unable to obtain
 1593 insurance through the voluntary market through ordinary methods
 1594 continue to have access to coverage from the corporation. If
 1595 coverage is sought in connection with a real property transfer,

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1596 the requirements and procedures may not provide an effective
 1597 date of coverage later than the date of the closing of the
 1598 transfer as established by the transferor, the transferee, and,
 1599 if applicable, the lender.

1600 13. Must provide that:7

1601 a. With respect to the coastal account, any assessable
 1602 insurer with a surplus as to policyholders of \$25 million or
 1603 less writing 25 percent or more of its total countrywide
 1604 property insurance premiums in this state may petition the
 1605 office, within the first 90 days of each calendar year, to
 1606 qualify as a limited apportionment company. A regular assessment
 1607 levied by the corporation on a limited apportionment company for
 1608 a deficit incurred by the corporation for the coastal account
 1609 may be paid to the corporation on a monthly basis as the
 1610 assessments are collected by the limited apportionment company
 1611 from its insureds, but a limited apportionment company must
 1612 begin collecting the regular assessments not later than 90 days
 1613 after the regular assessments are levied by the corporation, and
 1614 the regular assessments must be paid in full within 15 months
 1615 after being levied by the corporation. A limited apportionment
 1616 company shall collect from its policyholders any emergency
 1617 assessment imposed under sub-subparagraph (b)3.e. ~~(b)3.d.~~ The
 1618 plan must provide that, if the office determines that any
 1619 regular assessment will result in an impairment of the surplus
 1620 of a limited apportionment company, the office may direct that
 1621 all or part of such assessment be deferred as provided in
 1622 subparagraph (q)4. However, an emergency assessment to be
 1623 collected from policyholders under sub-subparagraph (b)3.e.
 1624 ~~(b)3.d.~~ may not be limited or deferred; or

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1625 b. With respect to the Citizens account, if established by
 1626 the corporation pursuant to sub-subparagraph (b)2.b., any
 1627 assessable insurer with a surplus as to policyholders of \$25
 1628 million or less and writing 25 percent or more of its total
 1629 countrywide property insurance premiums in this state may
 1630 petition the office, within the first 90 days of each calendar
 1631 year, to qualify as a limited apportionment company. A limited
 1632 apportionment company shall collect from its policyholders any
 1633 emergency assessment imposed under sub-subparagraph (b)5.c. An
 1634 emergency assessment to be collected from policyholders under
 1635 sub-subparagraph (b)5.c. may not be limited or deferred.

1636 14. Must provide that the corporation appoint as its
 1637 licensed agents only those agents who throughout such
 1638 appointments also hold an appointment as defined in s. 626.015
 1639 by an insurer who is authorized to write and is actually writing
 1640 or renewing personal lines residential property coverage,
 1641 commercial residential property coverage, or commercial
 1642 nonresidential property coverage within the state.

1643 15. Must provide a premium payment plan option to its
 1644 policyholders which, at a minimum, allows for quarterly and
 1645 semiannual payment of premiums. A monthly payment plan may, but
 1646 is not required to, be offered.

1647 16. Must limit coverage on mobile homes or manufactured
 1648 homes built before 1994 to actual cash value of the dwelling
 1649 rather than replacement costs of the dwelling.

1650 17. Must provide coverage for manufactured or mobile home
 1651 dwellings. Such coverage must also include the following
 1652 attached structures:

1653 a. Screened enclosures that are aluminum framed or screened

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1654 enclosures that are not covered by the same or substantially the
 1655 same materials as those of the primary dwelling;

1656 b. Carports that are aluminum or carports that are not
 1657 covered by the same or substantially the same materials as those
 1658 of the primary dwelling; and

1659 c. Patios that have a roof covering that is constructed of
 1660 materials that are not the same or substantially the same
 1661 materials as those of the primary dwelling.

1662
 1663 The corporation shall make available a policy for mobile homes
 1664 or manufactured homes for a minimum insured value of at least
 1665 \$3,000.

1666 18. May provide such limits of coverage as the board
 1667 determines, consistent with the requirements of this subsection.

1668 19. May require commercial property to meet specified
 1669 hurricane mitigation construction features as a condition of
 1670 eligibility for coverage.

1671 20. Must provide that new or renewal policies issued by the
 1672 corporation on or after January 1, 2012, which cover sinkhole
 1673 loss do not include coverage for any loss to appurtenant
 1674 structures, driveways, sidewalks, decks, or patios that are
 1675 directly or indirectly caused by sinkhole activity. The
 1676 corporation shall exclude such coverage using a notice of
 1677 coverage change, which may be included with the policy renewal,
 1678 and not by issuance of a notice of nonrenewal of the excluded
 1679 coverage upon renewal of the current policy.

1680 21.a. As of January 1, 2012, unless the Citizens account
 1681 has been established pursuant to sub-subparagraph (b)2.b., must
 1682 require that the agent obtain from an applicant for coverage

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1683 from the corporation an acknowledgment signed by the applicant,
1684 which includes, at a minimum, the following statement:

1685
1686 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE
1687 AND ASSESSMENT LIABILITY:
1688

1689 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
1690 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
1691 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
1692 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
1693 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE
1694 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT
1695 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
1696 LEGISLATURE.

1697 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER
1698 SURCHARGE, WHICH COULD BE AS HIGH AS 45 PERCENT OF MY PREMIUM,
1699 BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO
1700 BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN
1701 PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE
1702 WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES
1703 ARE REGULATED AND APPROVED BY THE STATE.

1704 3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
1705 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
1706 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
1707 FLORIDA LEGISLATURE.

1708 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
1709 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
1710 STATE OF FLORIDA.
1711

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1712 b. The corporation must require, if it has established the
1713 Citizens account pursuant to sub-subparagraph (b)2.b., that the
1714 agent obtain from an applicant for coverage from the corporation
1715 the following acknowledgment signed by the applicant, which
1716 includes, at a minimum, the following statement:

1717
1718 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE
1719 AND ASSESSMENT LIABILITY:
1720

1721 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
1722 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
1723 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
1724 MY POLICY COULD BE SUBJECT TO SURCHARGES AND ASSESSMENTS, WHICH
1725 WILL BE DUE AND PAYABLE UPON RENEWAL, CANCELLATION, OR
1726 TERMINATION OF THE POLICY, AND THAT THE SURCHARGES AND
1727 ASSESSMENTS COULD BE AS HIGH AS 25 PERCENT OF MY PREMIUM, OR A
1728 DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA LEGISLATURE.

1729 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER
1730 SURCHARGE, WHICH COULD BE AS HIGH AS 15 PERCENT OF MY PREMIUM,
1731 BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO
1732 BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN
1733 PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE
1734 WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES
1735 ARE REGULATED AND APPROVED BY THE STATE.

1736 3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
1737 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
1738 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
1739 FLORIDA LEGISLATURE.

1740 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE

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1741 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
1742 STATE OF FLORIDA.

1743
1744 ~~c.e.~~ The corporation shall maintain, in electronic format
1745 or otherwise, a copy of the applicant's signed acknowledgment
1746 and provide a copy of the statement to the policyholder as part
1747 of the first renewal after the effective date of sub-
1748 subparagraph a. or sub-subparagraph b., as applicable ~~this~~
1749 ~~subparagraph.~~

1750 ~~d.b.~~ The signed acknowledgment form creates a conclusive
1751 presumption that the policyholder understood and accepted his or
1752 her potential surcharge and assessment liability as a
1753 policyholder of the corporation.

1754 (n)1. Rates for coverage provided by the corporation must
1755 be actuarially sound pursuant and subject to s. 627.062 and not
1756 competitive with approved rates charged in the admitted
1757 voluntary market so that the corporation functions as a residual
1758 market mechanism to provide insurance only when insurance cannot
1759 be procured in the voluntary market, except as otherwise
1760 provided in this paragraph. The office shall provide the
1761 corporation such information as would be necessary to determine
1762 whether rates are competitive. The corporation shall file its
1763 recommended rates with the office at least annually. The
1764 corporation shall provide any additional information regarding
1765 the rates which the office requires. The office shall consider
1766 the recommendations of the board and issue a final order
1767 establishing the rates for the corporation within 45 days after
1768 the recommended rates are filed. The corporation may not pursue
1769 an administrative challenge or judicial review of the final

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1770 order of the office.

1771 2. In addition to the rates otherwise determined pursuant
1772 to this paragraph, the corporation shall impose and collect an
1773 amount equal to the premium tax provided in s. 624.509 to
1774 augment the financial resources of the corporation.

1775 3. After the public hurricane loss-projection model under
1776 s. 627.06281 has been found to be accurate and reliable by the
1777 Florida Commission on Hurricane Loss Projection Methodology, the
1778 model shall be considered when establishing the windstorm
1779 portion of the corporation's rates. The corporation may use the
1780 public model results in combination with the results of private
1781 models to calculate rates for the windstorm portion of the
1782 corporation's rates. This subparagraph does not require or allow
1783 the corporation to adopt rates lower than the rates otherwise
1784 required or allowed by this paragraph.

1785 4. The corporation must make a recommended actuarially
1786 sound rate filing for each personal and commercial line of
1787 business it writes.

1788 5. Notwithstanding the board's recommended rates and the
1789 office's final order regarding the corporation's filed rates
1790 under subparagraph 1., the corporation shall annually implement
1791 a rate increase which, except for sinkhole coverage, does not
1792 exceed the following for any single policy issued by the
1793 corporation, excluding coverage changes and surcharges:

1794 a. ~~Eleven percent for 2022.~~

1795 ~~b.~~ Twelve percent for 2023.

1796 ~~b.e.~~ Thirteen percent for 2024.

1797 ~~c.e.~~ Fourteen percent for 2025.

1798 ~~d.e.~~ Fifteen percent for 2026 and all subsequent years.

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1799 6. The corporation may also implement an increase to
1800 reflect the effect on the corporation of the cash buildup factor
1801 pursuant to s. 215.555(5)(b).

1802 7. The corporation's implementation of rates as prescribed
1803 in subparagraphs 5. and 8. ~~subparagraph 5.~~ shall cease for any
1804 line of business written by the corporation upon the
1805 corporation's implementation of actuarially sound rates.
1806 Thereafter, the corporation shall annually make a recommended
1807 actuarially sound rate filing that is not competitive with
1808 approved rates in the admitted voluntary market for each
1809 commercial and personal line of business the corporation writes.

1810 8. For any new or renewal personal lines policy written on
1811 or after November 1, 2023, which does not cover a primary
1812 residence, the rate to be applied in calculating premium is not
1813 subject to the rate increase limitations in subparagraph 5.
1814 However, the policyholder may not be charged more than 50
1815 percent above, and may not be charged less than, the established
1816 rate for the corporation which was in effect 1 year before the
1817 date of the application.

1818 9. As used in this paragraph, the term "primary residence"
1819 means the dwelling that is the policyholder's primary home or is
1820 a rental property that is the primary home of the tenant, and
1821 which the policyholder or tenant occupies for more than 9 months
1822 of each year.

1823 (o) If coverage in an account, or the Citizens account if
1824 established by the corporation, is deactivated pursuant to
1825 paragraph (p), coverage through the corporation shall be
1826 reactivated by order of the office only under one of the
1827 following circumstances:

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1828 1. If the market assistance plan receives a minimum of 100
1829 applications for coverage within a 3-month period, or 200
1830 applications for coverage within a 1-year period or less for
1831 residential coverage, unless the market assistance plan provides
1832 a quotation from admitted carriers at their filed rates for at
1833 least 90 percent of such applicants. Any market assistance plan
1834 application that is rejected because an individual risk is so
1835 hazardous as to be uninsurable using the criteria specified in
1836 subparagraph (c)8. shall not be included in the minimum
1837 percentage calculation provided herein. In the event that there
1838 is a legal or administrative challenge to a determination by the
1839 office that the conditions of this subparagraph have been met
1840 for eligibility for coverage in the corporation, any eligible
1841 risk may obtain coverage during the pendency of such challenge.

1842 2. In response to a state of emergency declared by the
1843 Governor under s. 252.36, the office may activate coverage by
1844 order for the period of the emergency upon a finding by the
1845 office that the emergency significantly affects the availability
1846 of residential property insurance.

1847 (p)1. The corporation shall file with the office quarterly
1848 statements of financial condition, an annual statement of
1849 financial condition, and audited financial statements in the
1850 manner prescribed by law. In addition, the corporation shall
1851 report to the office monthly on the types, premium, exposure,
1852 and distribution by county of its policies in force, and shall
1853 submit other reports as the office requires to carry out its
1854 oversight of the corporation.

1855 2. The activities of the corporation shall be reviewed at
1856 least annually by the office to determine whether coverage shall

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1857 be deactivated in an account, or in the Citizens account if
 1858 established by the corporation, on the basis that the conditions
 1859 giving rise to its activation no longer exist.

1860 (q)1. The corporation shall certify to the office its needs
 1861 for annual assessments as to a particular calendar year, and for
 1862 any interim assessments that it deems to be necessary to sustain
 1863 operations as to a particular year pending the receipt of annual
 1864 assessments. Upon verification, the office shall approve such
 1865 certification, and the corporation shall levy such annual or
 1866 interim assessments. Such assessments shall be prorated, if
 1867 authority to levy exists, as provided in paragraph (b). The
 1868 corporation shall take all reasonable and prudent steps
 1869 necessary to collect the amount of assessments due from each
 1870 assessable insurer, including, if prudent, filing suit to
 1871 collect the assessments, and the office may provide such
 1872 assistance to the corporation it deems appropriate. If the
 1873 corporation is unable to collect an assessment from any
 1874 assessable insurer, the uncollected assessments shall be levied
 1875 as an additional assessment against the assessable insurers and
 1876 any assessable insurer required to pay an additional assessment
 1877 as a result of such failure to pay shall have a cause of action
 1878 against such nonpaying assessable insurer. Assessments shall be
 1879 included as an appropriate factor in the making of rates. The
 1880 failure of a surplus lines agent to collect and remit any
 1881 regular or emergency assessment levied by the corporation is
 1882 considered to be a violation of s. 626.936 and subjects the
 1883 surplus lines agent to the penalties provided in that section.

1884 2. The governing body of any unit of local government, any
 1885 residents of which are insured by the corporation, may issue

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1886 bonds as defined in s. 125.013 or s. 166.101 from time to time
 1887 to fund an assistance program, in conjunction with the
 1888 corporation, for the purpose of defraying deficits of the
 1889 corporation. In order to avoid needless and indiscriminate
 1890 proliferation, duplication, and fragmentation of such assistance
 1891 programs, any unit of local government, any residents of which
 1892 are insured by the corporation, may provide for the payment of
 1893 losses, regardless of whether or not the losses occurred within
 1894 or outside of the territorial jurisdiction of the local
 1895 government. Revenue bonds under this subparagraph may not be
 1896 issued until validated pursuant to chapter 75, unless a state of
 1897 emergency is declared by executive order or proclamation of the
 1898 Governor pursuant to s. 252.36 making such findings as are
 1899 necessary to determine that it is in the best interests of, and
 1900 necessary for, the protection of the public health, safety, and
 1901 general welfare of residents of this state and declaring it an
 1902 essential public purpose to permit certain municipalities or
 1903 counties to issue such bonds as will permit relief to claimants
 1904 and policyholders of the corporation. Any such unit of local
 1905 government may enter into such contracts with the corporation
 1906 and with any other entity created pursuant to this subsection as
 1907 are necessary to carry out this paragraph. Any bonds issued
 1908 under this subparagraph shall be payable from and secured by
 1909 moneys received by the corporation from emergency assessments
 1910 under sub-subparagraph ~~(b)3.d.~~ (b)3.e., and assigned and pledged
 1911 to or on behalf of the unit of local government for the benefit
 1912 of the holders of such bonds. The funds, credit, property, and
 1913 taxing power of the state or of the unit of local government
 1914 shall not be pledged for the payment of such bonds.

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1915 3.a. The corporation shall adopt one or more programs
 1916 subject to approval by the office for the reduction of both new
 1917 and renewal writings in the corporation. Beginning January 1,
 1918 2008, any program the corporation adopts for the payment of
 1919 bonuses to an insurer for each risk the insurer removes from the
 1920 corporation shall comply with s. 627.3511(2) and may not exceed
 1921 the amount referenced in s. 627.3511(2) for each risk removed.
 1922 The corporation may consider any prudent and not unfairly
 1923 discriminatory approach to reducing corporation writings, and
 1924 may adopt a credit against assessment liability or other
 1925 liability that provides an incentive for insurers to take risks
 1926 out of the corporation and to keep risks out of the corporation
 1927 by maintaining or increasing voluntary writings in counties or
 1928 areas in which corporation risks are highly concentrated and a
 1929 program to provide a formula under which an insurer voluntarily
 1930 taking risks out of the corporation by maintaining or increasing
 1931 voluntary writings will be relieved wholly or partially from
 1932 assessments under sub-subparagraph (b)3.a. However, any "take-
 1933 out bonus" or payment to an insurer must be conditioned on the
 1934 property being insured for at least 5 years by the insurer,
 1935 unless canceled or nonrenewed by the policyholder. If the policy
 1936 is canceled or nonrenewed by the policyholder before the end of
 1937 the 5-year period, the amount of the take-out bonus must be
 1938 prorated for the time period the policy was insured. When the
 1939 corporation enters into a contractual agreement for a take-out
 1940 plan, the producing agent of record of the corporation policy is
 1941 entitled to retain any unearned commission on such policy, and
 1942 the insurer shall either:
 1943 (I) Pay to the producing agent of record of the policy, for

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1944 the first year, an amount which is the greater of the insurer's
 1945 usual and customary commission for the type of policy written or
 1946 a policy fee equal to the usual and customary commission of the
 1947 corporation; or
 1948 (II) Offer to allow the producing agent of record of the
 1949 policy to continue servicing the policy for a period of not less
 1950 than 1 year and offer to pay the agent the insurer's usual and
 1951 customary commission for the type of policy written. If the
 1952 producing agent is unwilling or unable to accept appointment by
 1953 the new insurer, the new insurer shall pay the agent in
 1954 accordance with sub-sub-subparagraph (I).
 1955 b. Any credit or exemption from regular assessments adopted
 1956 under this subparagraph shall last no longer than the 3 years
 1957 following the cancellation or expiration of the policy by the
 1958 corporation. With the approval of the office, the board may
 1959 extend such credits for an additional year if the insurer
 1960 guarantees an additional year of renewability for all policies
 1961 removed from the corporation, or for 2 additional years if the
 1962 insurer guarantees 2 additional years of renewability for all
 1963 policies so removed.
 1964 c. There shall be no credit, limitation, exemption, or
 1965 deferment from emergency assessments to be collected from
 1966 policyholders pursuant to sub-subparagraph (b)3.e. or sub-
 1967 subparagraph (b)5.c. ~~(b)3.d.~~
 1968 4. The plan shall provide for the deferment, in whole or in
 1969 part, of the assessment of an assessable insurer, other than an
 1970 emergency assessment collected from policyholders pursuant to
 1971 sub-subparagraph (b)3.e. or sub-subparagraph (b)5.c. ~~(b)3.d.~~, if
 1972 the office finds that payment of the assessment would endanger

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1973 or impair the solvency of the insurer. In the event an
 1974 assessment against an assessable insurer is deferred in whole or
 1975 in part, the amount by which such assessment is deferred may be
 1976 assessed against the other assessable insurers in a manner
 1977 consistent with the basis for assessments set forth in paragraph
 1978 (b).

1979 5. Effective July 1, 2007, in order to evaluate the costs
 1980 and benefits of approved take-out plans, if the corporation pays
 1981 a bonus or other payment to an insurer for an approved take-out
 1982 plan, it shall maintain a record of the address or such other
 1983 identifying information on the property or risk removed in order
 1984 to track if and when the property or risk is later insured by
 1985 the corporation.

1986 6. Any policy taken out, assumed, or removed from the
 1987 corporation is, as of the effective date of the take-out,
 1988 assumption, or removal, direct insurance issued by the insurer
 1989 and not by the corporation, even if the corporation continues to
 1990 service the policies. This subparagraph applies to policies of
 1991 the corporation and not policies taken out, assumed, or removed
 1992 from any other entity.

1993 7. For a policy taken out, assumed, or removed from the
 1994 corporation, the insurer may, for a period of no more than 3
 1995 years, continue to use any of the corporation's policy forms or
 1996 endorsements that apply to the policy taken out, removed, or
 1997 assumed without obtaining approval from the office for use of
 1998 such policy form or endorsement.

1999 (v)1. Effective July 1, 2002, policies of the Residential
 2000 Property and Casualty Joint Underwriting Association become
 2001 policies of the corporation. All obligations, rights, assets and

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2002 liabilities of the association, including bonds, note and debt
 2003 obligations, and the financing documents pertaining to them
 2004 become those of the corporation as of July 1, 2002. The
 2005 corporation is not required to issue endorsements or
 2006 certificates of assumption to insureds during the remaining term
 2007 of in-force transferred policies.

2008 2. Effective July 1, 2002, policies of the Florida
 2009 Windstorm Underwriting Association are transferred to the
 2010 corporation and become policies of the corporation. All
 2011 obligations, rights, assets, and liabilities of the association,
 2012 including bonds, note and debt obligations, and the financing
 2013 documents pertaining to them are transferred to and assumed by
 2014 the corporation on July 1, 2002. The corporation is not required
 2015 to issue endorsements or certificates of assumption to insureds
 2016 during the remaining term of in-force transferred policies.

2017 3. The Florida Windstorm Underwriting Association and the
 2018 Residential Property and Casualty Joint Underwriting Association
 2019 shall take all actions necessary to further evidence the
 2020 transfers and provide the documents and instruments of further
 2021 assurance as may reasonably be requested by the corporation for
 2022 that purpose. The corporation shall execute assumptions and
 2023 instruments as the trustees or other parties to the financing
 2024 documents of the Florida Windstorm Underwriting Association or
 2025 the Residential Property and Casualty Joint Underwriting
 2026 Association may reasonably request to further evidence the
 2027 transfers and assumptions, which transfers and assumptions,
 2028 however, are effective on the date provided under this paragraph
 2029 whether or not, and regardless of the date on which, the
 2030 assumptions or instruments are executed by the corporation.

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 2031 Subject to the relevant financing documents pertaining to their
 2032 outstanding bonds, notes, indebtedness, or other financing
 2033 obligations, the moneys, investments, receivables, choses in
 2034 action, and other intangibles of the Florida Windstorm
 2035 Underwriting Association shall be credited to the coastal
 2036 account of the corporation, and those of the personal lines
 2037 residential coverage account and the commercial lines
 2038 residential coverage account of the Residential Property and
 2039 Casualty Joint Underwriting Association shall be credited to the
 2040 personal lines account and the commercial lines account,
 2041 respectively, of the corporation.

2042 4. Effective July 1, 2002, a new applicant for property
 2043 insurance coverage who would otherwise have been eligible for
 2044 coverage in the Florida Windstorm Underwriting Association is
 2045 eligible for coverage from the corporation as provided in this
 2046 subsection.

2047 5. The transfer of all policies, obligations, rights,
 2048 assets, and liabilities from the Florida Windstorm Underwriting
 2049 Association to the corporation and the renaming of the
 2050 Residential Property and Casualty Joint Underwriting Association
 2051 as the corporation does not affect the coverage with respect to
 2052 covered policies as defined in s. 215.555(2)(c) provided to
 2053 these entities by the Florida Hurricane Catastrophe Fund. The
 2054 coverage provided by the fund to the Florida Windstorm
 2055 Underwriting Association based on its exposures as of June 30,
 2056 2002, and each June 30 thereafter, unless the corporation has
 2057 established the Citizens account, shall be redesignated as
 2058 coverage for the coastal account of the corporation.
 2059 Notwithstanding any other provision of law, the coverage

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 2060 provided by the fund to the Residential Property and Casualty
 2061 Joint Underwriting Association based on its exposures as of June
 2062 30, 2002, and each June 30 thereafter, unless the corporation
 2063 has established the Citizens account, shall be transferred to
 2064 the personal lines account and the commercial lines account of
 2065 the corporation. Notwithstanding any other provision of law, the
 2066 coastal account, unless the corporation has established the
 2067 Citizens account, shall be treated, for all Florida Hurricane
 2068 Catastrophe Fund purposes, as if it were a separate
 2069 participating insurer with its own exposures, reimbursement
 2070 premium, and loss reimbursement. Likewise, the personal lines
 2071 and commercial lines accounts, unless the corporation has
 2072 established the Citizens account, shall be viewed together, for
 2073 all fund purposes, as if the two accounts were one and represent
 2074 a single, separate participating insurer with its own exposures,
 2075 reimbursement premium, and loss reimbursement. The coverage
 2076 provided by the fund to the corporation shall constitute and
 2077 operate as a full transfer of coverage from the Florida
 2078 Windstorm Underwriting Association and Residential Property and
 2079 Casualty Joint Underwriting Association to the corporation.

2080 (w) Notwithstanding any other provision of law:

2081 1. The pledge or sale of, the lien upon, and the security
 2082 interest in any rights, revenues, or other assets of the
 2083 corporation created or purported to be created pursuant to any
 2084 financing documents to secure any bonds or other indebtedness of
 2085 the corporation shall be and remain valid and enforceable,
 2086 notwithstanding the commencement of and during the continuation
 2087 of, and after, any rehabilitation, insolvency, liquidation,
 2088 bankruptcy, receivership, conservatorship, reorganization, or

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2089 similar proceeding against the corporation under the laws of
2090 this state.

2091 2. The proceeding does not relieve the corporation of its
2092 obligation, or otherwise affect its ability to perform its
2093 obligation, to continue to collect, or levy and collect,
2094 assessments, policyholder surcharges or other surcharges under
2095 sub-subparagraph (b)3.j. ~~(b)3.i.~~, or any other rights, revenues,
2096 or other assets of the corporation pledged pursuant to any
2097 financing documents.

2098 3. Each such pledge or sale of, lien upon, and security
2099 interest in, including the priority of such pledge, lien, or
2100 security interest, any such assessments, policyholder surcharges
2101 or other surcharges, or other rights, revenues, or other assets
2102 which are collected, or levied and collected, after the
2103 commencement of and during the pendency of, or after, any such
2104 proceeding shall continue unaffected by such proceeding. As used
2105 in this subsection, the term "financing documents" means any
2106 agreement or agreements, instrument or instruments, or other
2107 document or documents now existing or hereafter created
2108 evidencing any bonds or other indebtedness of the corporation or
2109 pursuant to which any such bonds or other indebtedness has been
2110 or may be issued and pursuant to which any rights, revenues, or
2111 other assets of the corporation are pledged or sold to secure
2112 the repayment of such bonds or indebtedness, together with the
2113 payment of interest on such bonds or such indebtedness, or the
2114 payment of any other obligation or financial product, as defined
2115 in the plan of operation of the corporation related to such
2116 bonds or indebtedness.

2117 4. Any such pledge or sale of assessments, revenues,

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2118 contract rights, or other rights or assets of the corporation
2119 shall constitute a lien and security interest, or sale, as the
2120 case may be, that is immediately effective and attaches to such
2121 assessments, revenues, or contract rights or other rights or
2122 assets, whether or not imposed or collected at the time the
2123 pledge or sale is made. Any such pledge or sale is effective,
2124 valid, binding, and enforceable against the corporation or other
2125 entity making such pledge or sale, and valid and binding against
2126 and superior to any competing claims or obligations owed to any
2127 other person or entity, including policyholders in this state,
2128 asserting rights in any such assessments, revenues, or contract
2129 rights or other rights or assets to the extent set forth in and
2130 in accordance with the terms of the pledge or sale contained in
2131 the applicable financing documents, whether or not any such
2132 person or entity has notice of such pledge or sale and without
2133 the need for any physical delivery, recordation, filing, or
2134 other action.

2135 5. As long as the corporation has any bonds outstanding,
2136 the corporation may not file a voluntary petition under chapter
2137 9 of the federal Bankruptcy Code or such corresponding chapter
2138 or sections as may be in effect, from time to time, and a public
2139 officer or any organization, entity, or other person may not
2140 authorize the corporation to be or become a debtor under chapter
2141 9 of the federal Bankruptcy Code or such corresponding chapter
2142 or sections as may be in effect, from time to time, during any
2143 such period.

2144 6. If ordered by a court of competent jurisdiction, the
2145 corporation may assume policies or otherwise provide coverage
2146 for policyholders of an insurer placed in liquidation under

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2147 chapter 631, under such forms, rates, terms, and conditions as
 2148 the corporation deems appropriate, subject to approval by the
 2149 office.

2150 (aa) Except as otherwise provided in this paragraph, the
 2151 corporation shall ~~not~~ require the securing and maintaining of
 2152 flood insurance as a condition of coverage of a personal lines
 2153 residential risk. ~~if~~ The insured or applicant must execute
 2154 ~~executes~~ a form approved by the office affirming that flood
 2155 insurance is not provided by the corporation and that if flood
 2156 insurance is not secured by the applicant or insured from an
 2157 insurer other than the corporation and in addition to coverage
 2158 by the corporation, the risk will not be eligible for coverage
 2159 by the corporation covered for flood damage. A corporation
 2160 policyholder electing not to secure flood insurance and
 2161 executing a form as provided herein making a claim for water
 2162 damage against the corporation shall have the burden of proving
 2163 the damage was not caused by flooding. Notwithstanding other
 2164 provisions of this subsection, The corporation may deny coverage
 2165 of a personal lines residential risk to an applicant or insured
 2166 who refuses to secure and maintain flood insurance ~~execute the~~
 2167 ~~form described herein.~~ The requirement to purchase flood
 2168 insurance shall be implemented as follows:

2169 1. Except as provided in subparagraphs 2. and 3., all
 2170 personal lines residential policyholders must have flood
 2171 coverage in place for policies effective on or after:

2172 a. January 1, 2024, for property valued at \$600,000 or
 2173 more.

2174 b. January 1, 2025, for property valued at \$500,000 or
 2175 more.

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2176 c. January 1, 2026, for property valued at \$400,000 or
 2177 more.

2178 d. January 1, 2027, for all other personal lines
 2179 residential property insured by the corporation.

2180 2. All personal lines residential policyholders whose
 2181 property insured by the corporation is located within the
 2182 special flood hazard area defined by the Federal Emergency
 2183 Management Agency must have flood coverage in place:

2184 a. At the time of initial policy issuance for all new
 2185 personal lines residential policies issued by the corporation on
 2186 or after April 1, 2023.

2187 b. By the time of the policy renewal for all personal lines
 2188 residential policies renewing on or after July 1, 2023.

2189 3. Policyholders whose policies issued by the corporation
 2190 do not provide coverage for the peril of wind are not required
 2191 to purchase flood insurance as a condition for maintaining their
 2192 policies with the corporation.

2193 The flood insurance required under this paragraph must meet, at
 2194 a minimum, the coverage available from the National Flood
 2195 Insurance Program or the requirements of subparagraphs s.
 2196 627.715(1) (a)1., 2., and 3.

2198 (ii) The corporation shall revise the programs adopted
 2199 pursuant to sub-subparagraph (q)3.a. for personal lines
 2200 residential policies to maximize policyholder options and
 2201 encourage increased participation by insurers and agents. After
 2202 January 1, 2017, a policy may not be taken out of the
 2203 corporation unless the provisions of this paragraph are met.

2204 1. The corporation must publish a periodic schedule of

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2205 cycles during which an insurer may identify, and notify the
 2206 corporation of, policies that the insurer is requesting to take
 2207 out. A request must include a description of the coverage
 2208 offered and an estimated premium and must be submitted to the
 2209 corporation in a form and manner prescribed by the corporation.

2210 2. The corporation must maintain and make available to the
 2211 agent of record a consolidated list of all insurers requesting
 2212 to take out a policy. The list must include a description of the
 2213 coverage offered and the estimated premium for each take-out
 2214 request.

2215 3. If a policyholder receives a take-out offer from an
 2216 authorized insurer, the risk is no longer eligible for coverage
 2217 with the corporation unless the premium for coverage from the
 2218 authorized insurer is more 20 percent greater than the renewal
 2219 premium for comparable coverage from the corporation pursuant to
 2220 sub-subparagraph (c)5.c. This subparagraph applies to take-out
 2221 offers that are part of an application to participate in
 2222 depopulation submitted to the office on or after January 1,
 2223 2023.

2224 4. The corporation must provide written notice to the
 2225 policyholder and the agent of record regarding all insurers
 2226 requesting to take out the policy ~~and regarding the~~
 2227 ~~policyholder's option to accept a take-out offer or to reject~~
 2228 ~~all take-out offers and to remain with the corporation.~~ The
 2229 notice must be in a format prescribed by the corporation and
 2230 include, for each take-out offer:

- 2231 a. The amount of the estimated premium;
- 2232 b. A description of the coverage; and
- 2233 c. A comparison of the estimated premium and coverage

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2234 offered by the insurer to the estimated premium and coverage
 2235 provided by the corporation.

2236 (kk) A corporation policyholder making a claim for water
 2237 damage against the corporation has the burden of proving that
 2238 the damage was not caused by flooding.

2239 Section 9. Paragraph (s) of subsection (6) of section
 2240 627.351, Florida Statutes, is amended to read:

2241 627.351 Insurance risk apportionment plans.—

2242 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

2243 (s)1. There shall be no liability on the part of, and no
 2244 cause of action of any nature shall arise against, any
 2245 assessable insurer or its agents or employees, the corporation
 2246 or its agents or employees, members of the board of governors or
 2247 their respective designees at a board meeting, corporation
 2248 committee members, or the office or its representatives, for any
 2249 action taken by them in the performance of their duties or
 2250 responsibilities under this subsection. Such immunity does not
 2251 apply to:

- 2252 a. Any of the foregoing persons or entities for any willful
 2253 tort;
- 2254 b. The corporation or its producing agents for breach of
 2255 any contract or agreement pertaining to insurance coverage;
- 2256 c. The corporation with respect to issuance or payment of
 2257 debt;
- 2258 d. Any assessable insurer with respect to any action to
 2259 enforce an assessable insurer's obligations to the corporation
 2260 under this subsection; or
- 2261 e. The corporation in any pending or future action for
 2262 breach of contract or for benefits under a policy issued by the

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2263 corporation; in any such action, the corporation shall be liable
 2264 to the policyholders and beneficiaries for attorney's fees under
 2265 ~~s. 627.428.~~

2266 2. The corporation shall manage its claim employees,
 2267 independent adjusters, and others who handle claims to ensure
 2268 they carry out the corporation's duty to its policyholders to
 2269 handle claims carefully, timely, diligently, and in good faith,
 2270 balanced against the corporation's duty to the state to manage
 2271 its assets responsibly to minimize its assessment potential.

2272 Section 10. Paragraphs (b) and (c) of subsection (3) and
 2273 paragraphs (d), (e), and (f) of subsection (6) of section
 2274 627.3511, Florida Statutes, are amended to read:

2275 627.3511 Depopulation of Citizens Property Insurance
 2276 Corporation.—

2277 (3) EXEMPTION FROM DEFICIT ASSESSMENTS.—

2278 (b) An insurer that first wrote personal lines residential
 2279 property coverage in this state on or after July 1, 1994, is
 2280 exempt from regular deficit assessments imposed pursuant to s.
 2281 627.351(6)(b)3.a., but not emergency assessments collected from
 2282 policyholders pursuant to s. 627.351(6)(b)3.e. ~~s.~~

2283 ~~627.351(6)(b)3.d.~~, of the Citizens Property Insurance
 2284 Corporation until the earlier of the following:

2285 1. The end of the calendar year in which it first wrote 0.5
 2286 percent or more of the statewide aggregate direct written
 2287 premium for any line of residential property coverage; or

2288 2. December 31, 1997, or December 31 of the third year in
 2289 which it wrote such coverage in this state, whichever is later.

2290 (c) Other than an insurer that is exempt under paragraph
 2291 (b), an insurer that in any calendar year increases its total

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2292 structure exposure subject to wind coverage by 25 percent or
 2293 more over its exposure for the preceding calendar year is, with
 2294 respect to that year, exempt from deficit assessments imposed
 2295 pursuant to s. 627.351(6)(b)3.a., but not emergency assessments
 2296 collected from policyholders pursuant to s. 627.351(6)(b)3.e. ~~s.~~
 2297 ~~627.351(6)(b)3.d.~~, of the Citizens Property Insurance
 2298 Corporation attributable to such increase in exposure.

2299 (6) COMMERCIAL RESIDENTIAL TAKE-OUT PLANS.—

2300 (d) The calculation of an insurer's regular assessment
 2301 liability under s. 627.351(6)(b)3.a., but not emergency
 2302 assessments collected from policyholders pursuant to s.
 2303 627.351(6)(b)3.e. ~~s. 627.351(6)(b)3.d.~~, shall, with respect to
 2304 commercial residential policies removed from the corporation
 2305 under an approved take-out plan, exclude such removed policies
 2306 for the succeeding 3 years, as follows:

2307 1. In the first year following removal of the policies, the
 2308 policies are excluded from the calculation to the extent of 100
 2309 percent.

2310 2. In the second year following removal of the policies,
 2311 the policies are excluded from the calculation to the extent of
 2312 75 percent.

2313 3. In the third year following removal of the policies, the
 2314 policies are excluded from the calculation to the extent of 50
 2315 percent.

2316 (e) An insurer that first wrote commercial residential
 2317 property coverage in this state on or after June 1, 1996, is
 2318 exempt from regular assessments under s. 627.351(6)(b)3.a., but
 2319 not emergency assessments collected from policyholders pursuant
 2320 to s. 627.351(6)(b)3.e. ~~s. 627.351(6)(b)3.d.~~, with respect to

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2321 commercial residential policies until the earlier of:

2322 1. The end of the calendar year in which such insurer first
2323 wrote 0.5 percent or more of the statewide aggregate direct
2324 written premium for commercial residential property coverage; or

2325 2. December 31 of the third year in which such insurer
2326 wrote commercial residential property coverage in this state.

2327 (f) An insurer that is not otherwise exempt from regular
2328 assessments under s. 627.351(6)(b)3.a. with respect to
2329 commercial residential policies is, for any calendar year in
2330 which such insurer increased its total commercial residential
2331 hurricane exposure by 25 percent or more over its exposure for
2332 the preceding calendar year, exempt from regular assessments
2333 under s. 627.351(6)(b)3.a., but not emergency assessments
2334 collected from policyholders pursuant to s. 627.351(6)(b)3.e. ~~or~~
2335 ~~627.351(6)(b)3.d.~~, attributable to such increased exposure.

2336 Section 11. Effective January 1, 2023, subsection (5) of
2337 section 627.3518, Florida Statutes, is amended to read:

2338 627.3518 Citizens Property Insurance Corporation
2339 policyholder eligibility clearinghouse program.—The purpose of
2340 this section is to provide a framework for the corporation to
2341 implement a clearinghouse program by January 1, 2014.

2342 (5) Notwithstanding s. 627.3517, any applicant for new
2343 coverage from the corporation is not eligible for coverage from
2344 the corporation if provided an offer of coverage from an
2345 authorized insurer through the program at a premium that is at
2346 or below the eligibility threshold for applicants for new
2347 coverage established in s. 627.351(6)(c)5.a. Whenever an offer
2348 of coverage for a personal lines risk is received for a
2349 policyholder of the corporation at renewal from an authorized

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2350 insurer through the program which is at or below the eligibility
2351 threshold for policyholders of the corporation established in s.
2352 ~~627.351(6)(c)5.a., if the offer is equal to or less than the~~
2353 ~~corporation's renewal premium for comparable coverage,~~ the risk
2354 is not eligible for coverage with the corporation. In the event
2355 an offer of coverage for a new applicant is received from an
2356 authorized insurer through the program, and the premium offered
2357 exceeds the eligibility threshold for applicants for new
2358 coverage established ~~contained~~ in s. 627.351(6)(c)5.a., the
2359 applicant or insured may elect to accept such coverage, or may
2360 elect to accept or continue coverage with the corporation. In
2361 the event an offer of coverage for a personal lines risk is
2362 received from an authorized insurer at renewal through the
2363 program, and the premium offered exceeds the eligibility
2364 threshold for policyholders of the corporation established in s.
2365 627.351(6)(c)5.a. ~~is more than the corporation's renewal premium~~
2366 ~~for comparable coverage,~~ the insured may elect to accept such
2367 coverage, or may elect to accept or continue coverage with the
2368 corporation. Section 627.351(6)(c)5.a.(I) does not apply to an
2369 offer of coverage from an authorized insurer obtained through
2370 the program. ~~An applicant for coverage from the corporation who~~
2371 ~~was declared ineligible for coverage at renewal by the~~
2372 ~~corporation in the previous 36 months due to an offer of~~
2373 ~~coverage pursuant to this subsection shall be considered a~~
2374 ~~renewal under this section if the corporation determines that~~
2375 ~~the authorized insurer making the offer of coverage pursuant to~~
2376 ~~this subsection continues to insure the applicant and increased~~
2377 ~~the rate on the policy in excess of the increase allowed for the~~
2378 ~~corporation under s. 627.351(6)(n)5.~~

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2379 Section 12. Subsection (3) of section 627.410, Florida
 2380 Statutes, is amended to read:
 2381 627.410 Filing, approval of forms.—
 2382 (3) The office may, for cause, withdraw a previous
 2383 approval. No insurer shall issue or use any form disapproved by
 2384 the office, or as to which the office has withdrawn approval,
 2385 after the effective date of the order of the office. Based on a
 2386 finding from a market conduct examination of a property insurer
 2387 that the insurer has exhibited a pattern or practice of one or
 2388 more willful unfair insurance trade practice violations with
 2389 regard to its use of appraisal, the office shall reexamine the
 2390 insurer's property insurance policy forms that contain an
 2391 appraisal clause, and the office may:
 2392 (a) Withdraw approval of the forms, if warranted by the
 2393 Florida Insurance Code.
 2394 (b) In addition to any regulatory action under ss. 624.418
 2395 and 624.4211, issue an order prohibiting the insurer from
 2396 invoking appraisal for up to 2 years.
 2397 Section 13. Subsections (1) and (4) of section 627.428,
 2398 Florida Statutes, are amended to read:
 2399 627.428 Attorney fees.—
 2400 (1) Except as provided in subsection (4), upon the
 2401 rendition of a judgment or decree by any of the courts of this
 2402 state against an insurer and in favor of any named or omnibus
 2403 insured or the named beneficiary under a policy or contract
 2404 executed by the insurer, the trial court or, in the event of an
 2405 appeal in which the insured or beneficiary prevails, the
 2406 appellate court shall adjudge or decree against the insurer and
 2407 in favor of the insured or beneficiary a reasonable sum as fees

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2408 or compensation for the insured's or beneficiary's attorney
 2409 prosecuting the suit in which the recovery is had. ~~In a suit~~
 2410 ~~arising under a residential or commercial property insurance~~
 2411 ~~policy, the amount of reasonable attorney fees shall be awarded~~
 2412 ~~only as provided in s. 57.105 or s. 627.70152, as applicable.~~
 2413 (4) In a suit arising under a residential or commercial
 2414 property insurance policy, there is no ~~the~~ right to attorney
 2415 fees under this section ~~may not be transferred to, assigned to,~~
 2416 ~~or acquired in any other manner by anyone other than a named or~~
 2417 ~~omnibus insured or a named beneficiary.~~
 2418 Section 14. Paragraph (b) of subsection (4) of section
 2419 627.7011, Florida Statutes, is amended to read:
 2420 627.7011 Homeowners' policies; offer of replacement cost
 2421 coverage and law and ordinance coverage.—
 2422 (4)
 2423 (b) An insurer that issues a homeowner's insurance policy
 2424 that does not provide flood insurance coverage must include on
 2425 the policy declarations page with the policy documents at
 2426 initial issuance and every renewal, in bold type no smaller than
 2427 18 points, the following statement:
 2428
 2429 "FLOOD INSURANCE: YOU SHOULD ~~MAY ALSO NEED TO~~ CONSIDER
 2430 THE PURCHASE OF FLOOD INSURANCE. YOUR HOMEOWNER'S
 2431 INSURANCE POLICY DOES NOT INCLUDE COVERAGE FOR DAMAGE
 2432 RESULTING FROM FLOOD EVEN IF HURRICANE WINDS AND RAIN
 2433 CAUSED THE FLOOD TO OCCUR. WITHOUT SEPARATE FLOOD
 2434 INSURANCE COVERAGE, YOUR ~~YOU MAY HAVE~~ UNCOVERED LOSSES
 2435 CAUSED BY FLOOD ARE NOT COVERED. PLEASE DISCUSS THE
 2436 NEED TO PURCHASE SEPARATE FLOOD INSURANCE COVERAGE

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2437 WITH YOUR INSURANCE AGENT.”

2438

2439 Section 15. Effective March 1, 2023, present subsection (8)
2440 of section 627.70131, Florida Statutes, is redesignated as
2441 subsection (9), a new subsection (8) is added to that section,
2442 and paragraph (a) of subsection (1), subsections (3), (4), and
2443 (5), and paragraph (a) of subsection (7) of that section are
2444 amended, to read:

2445 627.70131 Insurer’s duty to acknowledge communications
2446 regarding claims; investigation.—

2447 (1) (a) Upon an insurer’s receiving a communication with
2448 respect to a claim, the insurer shall, within 7 ~~14~~ calendar
2449 days, review and acknowledge receipt of such communication
2450 unless payment is made within that period of time or unless the
2451 failure to acknowledge is caused by factors beyond the control
2452 of the insurer ~~which reasonably prevent such acknowledgment~~. If
2453 the acknowledgment is not in writing, a notification indicating
2454 acknowledgment shall be made in the insurer’s claim file and
2455 dated. A communication made to or by a representative of an
2456 insurer with respect to a claim shall constitute communication
2457 to or by the insurer.

2458 (3) (a) Unless otherwise provided by the policy of insurance
2459 or by law, within 7 ~~14~~ days after an insurer receives proof-of-
2460 loss statements, the insurer shall begin such investigation as
2461 is reasonably necessary unless the failure to begin such
2462 investigation is caused by factors beyond the control of the
2463 insurer ~~which reasonably prevent the commencement of such~~
2464 ~~investigation~~.

2465 (b) If such investigation involves a physical inspection of

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2466 the property, the licensed adjuster assigned by the insurer must
2467 provide the policyholder with a printed or electronic document
2468 containing his or her name and state adjuster license number.
2469 ~~For claims other than those subject to a hurricane deductible,~~
2470 An insurer must conduct any such physical inspection within 30
2471 ~~45~~ days after its receipt of the proof-of-loss statements.

2472 (c) Any subsequent communication with the policyholder
2473 regarding the claim must also include the name and license
2474 number of the adjuster communicating about the claim.
2475 Communication of the adjuster’s name and license number may be
2476 included with other information provided to the policyholder.

2477 (d) An insurer may use electronic methods to investigate
2478 the loss. Such electronic methods may include any method that
2479 provides the insurer with clear, color pictures or video
2480 documenting the loss, including, but not limited to, electronic
2481 photographs or video recordings of the loss, video conferencing
2482 between the adjuster and the policyholder which includes video
2483 recording of the loss, and video recordings or photographs of
2484 the loss using a drone, driverless vehicle, or other machine
2485 that can move independently or through remote control. The
2486 insurer also may allow the policyholder to use such methods to
2487 assist in the investigation of the loss. An insurer may void the
2488 insurance policy if the policyholder or any other person at the
2489 direction of the policyholder, with intent to injure, defraud,
2490 or deceive any insurer, commits insurance fraud by providing
2491 false, incomplete, or misleading information concerning any fact
2492 or thing material to a claim using electronic methods. The use
2493 of electronic methods to investigate the loss does not prohibit
2494 an insurer from assigning a licensed adjuster to physically

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2495 inspect the property.

2496 (e) Within 7 days after the insurer's assignment of an
 2497 adjuster to the claim, The insurer must send notify the
 2498 policyholder that he or she may request a copy of any detailed
 2499 estimate of the amount of the loss within 7 days after the
 2500 estimate is generated by an insurer's adjuster. After receiving
 2501 such a request from the policyholder, the insurer must send any
 2502 such detailed estimate to the policyholder within the later of 7
 2503 days after the insurer received the request or 7 days after the
 2504 detailed estimate of the amount of the loss is completed. This
 2505 paragraph does not require that an insurer create a detailed
 2506 estimate of the amount of the loss if such estimate is not
 2507 reasonably necessary as part of the claim investigation.

2508 (4) An insurer shall maintain:

2509 (a) A record or log of each adjuster who communicates with
 2510 the policyholder as provided in paragraphs (3)(b) and (c) and
 2511 provide a list of such adjusters to the insured, office, or
 2512 department upon request.

2513 (b) Claim records, including dates, of:

2514 1. Any claim-related communication made between the insurer
 2515 and the policyholder or the policyholder's representative;

2516 2. The insurer's receipt of the policyholder's proof of
 2517 loss statement;

2518 3. Any claim-related request for information made by the
 2519 insurer to the policyholder or the policyholder's
 2520 representative;

2521 4. Any claim-related inspections of the property made by
 2522 the insurer, including physical inspections and inspections made
 2523 by electronic means;

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2524 5. Any detailed estimate of the amount of the loss
 2525 generated by the insurer's adjuster;

2526 6. The beginning and end of any tolling period provided for
 2527 in subsection (8); and

2528 7. The insurer's payment or denial of the claim.

2529 (5) For purposes of this section, the term:

2530 (a) "Factors beyond the control of the insurer" means:

2531 1. Any of the following events that is the basis for the
 2532 office issuing an order finding that such event renders all or
 2533 specified residential property insurers reasonably unable to
 2534 meet the requirements of this section in specified locations and
 2535 ordering that such insurer or insurers may have additional time
 2536 as specified by the office to comply with the requirements of
 2537 this section: a state of emergency declared by the Governor
 2538 under s. 252.36, a breach of security that must be reported
 2539 under s. 501.171(3), or an information technology issue. The
 2540 office may not extend the period for payment or denial of a
 2541 claim for more than 30 additional days.

2542 2. Actions by the policyholder or the policyholder's
 2543 representative which constitute fraud, lack of cooperation, or
 2544 intentional misrepresentation regarding the claim for which
 2545 benefits are owed when such actions reasonably prevent the
 2546 insurer from complying with any requirement of this section.

2547 (b) "Insurer" means any residential property insurer.

2548 (7) (a) Within ~~60~~ 90 days after an insurer receives notice
 2549 of an initial, reopened, or supplemental property insurance
 2550 claim from a policyholder, the insurer shall pay or deny such
 2551 claim or a portion of the claim unless the failure to pay is
 2552 caused by factors beyond the control of the insurer ~~which~~

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2553 ~~reasonably prevent such payment.~~ The insurer shall provide a
 2554 reasonable explanation in writing to the policyholder of the
 2555 basis in the insurance policy, in relation to the facts or
 2556 applicable law, for the payment, denial, or partial denial of a
 2557 claim. If the insurer's claim payment is less than specified in
 2558 any insurer's detailed estimate of the amount of the loss, the
 2559 insurer must provide a reasonable explanation in writing of the
 2560 difference to the policyholder. Any payment of an initial or
 2561 supplemental claim or portion of such claim made ~~60 90~~ days
 2562 after the insurer receives notice of the claim, or made ~~more~~
 2563 ~~than 15 days~~ after the expiration of any additional timeframe
 2564 provided to pay or deny a claim or a portion of a claim made
 2565 pursuant to an order of the office finding there are no longer
 2566 factors beyond the control of the insurer which reasonably
 2567 prevented such payment, whichever is later, bears interest at
 2568 the rate set forth in s. 55.03. Interest begins to accrue from
 2569 the date the insurer receives notice of the claim. The
 2570 provisions of this subsection may not be waived, voided, or
 2571 nullified by the terms of the insurance policy. If there is a
 2572 right to prejudgment interest, the insured must select whether
 2573 to receive prejudgment interest or interest under this
 2574 subsection. Interest is payable when the claim or portion of the
 2575 claim is paid. Failure to comply with this subsection
 2576 constitutes a violation of this code. However, failure to comply
 2577 with this subsection does not form the sole basis for a private
 2578 cause of action.

2579 (8) The requirements of this section are tolled:

2580 (a) During the pendency of any mediation proceeding under
 2581 s. 627.7015 or any alternative dispute resolution proceeding

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2582 provided for in the insurance contract. The tolling period ends
 2583 upon the end of the mediation or alternative dispute resolution
 2584 proceeding.

2585 (b) Upon the failure of a policyholder or a representative
 2586 of the policyholder to provide material claims information
 2587 requested by the insurer within 10 days after the request was
 2588 received. The tolling period ends upon the insurer's receipt of
 2589 the requested information. Tolling under this paragraph applies
 2590 only to requests sent by the insurer to the policyholder or a
 2591 representative of the policyholder at least 15 days before the
 2592 insurer is required to pay or deny the claim or a portion of the
 2593 claim under subsection (7).

2594 Section 16. Subsection (2) of section 627.70132, Florida
 2595 Statutes, is amended to read:

2596 627.70132 Notice of property insurance claim.—

2597 (2) A claim or reopened claim, but not a supplemental
 2598 claim, under an insurance policy that provides property
 2599 insurance, as defined in s. 624.604, including a property
 2600 insurance policy issued by an eligible surplus lines insurer,
 2601 for loss or damage caused by any peril is barred unless notice
 2602 of the claim was given to the insurer in accordance with the
 2603 terms of the policy within 1 year ~~2 years~~ after the date of
 2604 loss. A supplemental claim is barred unless notice of the
 2605 supplemental claim was given to the insurer in accordance with
 2606 the terms of the policy within 18 months ~~3 years~~
 2607 after the date of loss.

2608 Section 17. Subsections (1), (2), (6), and (8) of section
 2609 627.70152, Florida Statutes, are amended to read:

2610 627.70152 Suits arising under a property insurance policy.—

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2611 (1) APPLICATION.—This section applies exclusively to all
 2612 suits ~~not brought by an assignee~~ arising under a residential or
 2613 commercial property insurance policy, including a residential or
 2614 commercial property insurance policy issued by an eligible
 2615 surplus lines insurer.

2616 (2) DEFINITIONS.—As used in this section, the term:

2617 (a) ~~“Amount obtained” means damages recovered, if any, but~~
 2618 ~~the term does not include any amount awarded for attorney fees,~~
 2619 ~~costs, or interest.~~

2620 ~~(b)~~ “Claimant” means an insured who is filing suit under a
 2621 residential or commercial property insurance policy.

2622 (b) ~~(c)~~ “Disputed amount” means the difference between the
 2623 claimant’s presuit settlement demand, not including attorney
 2624 fees and costs listed in the demand, and the insurer’s presuit
 2625 settlement offer, not including attorney fees and costs, if part
 2626 of the offer.

2627 (c) ~~(d)~~ “Presuit settlement demand” means the demand made by
 2628 the claimant in the written notice of intent to initiate
 2629 litigation as required by paragraph (3) (a). The demand must
 2630 include the amount of reasonable and necessary attorney fees and
 2631 costs incurred by the claimant, to be calculated by multiplying
 2632 the number of hours actually worked on the claim by the
 2633 claimant’s attorney as of the date of the notice by a reasonable
 2634 hourly rate.

2635 (d) ~~(e)~~ “Presuit settlement offer” means the offer made by
 2636 the insurer in its written response to the notice as required by
 2637 subsection (3).

2638 (6) ADMISSIBILITY OF NOTICE AND RESPONSE.—The notice
 2639 provided pursuant to subsection (3) and, if applicable, the

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2640 documentation to support the information provided in the notice:

2641 (a) Are not admissible as evidence ~~only~~ in any ~~a~~ proceeding
 2642 ~~regarding attorney fees.~~

2643 ~~(b) Do not limit the evidence of attorney fees or costs,~~
 2644 ~~damages, or loss which may be offered at trial.~~

2645 ~~(c)~~ Do not relieve any obligation that an insured or
 2646 assignee has to give notice under any other provision of law.

2647 ~~(8) ATTORNEY FEES.—~~

2648 ~~(a) In a suit arising under a residential or commercial~~
 2649 ~~property insurance policy not brought by an assignee, the amount~~
 2650 ~~of reasonable attorney fees and costs under s. 626.9373(1) or s.~~
 2651 ~~627.428(1) shall be calculated and awarded as follows:~~

2652 1. If the difference between the amount obtained by the
 2653 claimant and the presuit settlement offer, excluding reasonable
 2654 attorney fees and costs, is less than 20 percent of the disputed
 2655 amount, each party pays its own attorney fees and costs and a
 2656 claimant may not be awarded attorney fees under s. 626.9373(1)
 2657 or s. 627.428(1).

2658 2. If the difference between the amount obtained by the
 2659 claimant and the presuit settlement offer, excluding reasonable
 2660 attorney fees and costs, is at least 20 percent but less than 50
 2661 percent of the disputed amount, the insurer pays the claimant’s
 2662 attorney fees and costs under s. 626.9373(1) or s. 627.428(1)
 2663 equal to the percentage of the disputed amount obtained times
 2664 the total attorney fees and costs.

2665 3. If the difference between the amount obtained by the
 2666 claimant and the presuit settlement offer, excluding reasonable
 2667 attorney fees and costs, is at least 50 percent of the disputed
 2668 amount, the insurer pays the claimant’s full attorney fees and

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2669 ~~costs under s. 626.9373(1) or s. 627.428(1).~~

2670 ~~(b) In a suit arising under a residential or commercial~~
 2671 ~~property insurance policy not brought by an assignee, if a court~~
 2672 ~~dismisses a claimant's suit pursuant to subsection (5), the~~
 2673 ~~court may not award to the claimant any incurred attorney fees~~
 2674 ~~for services rendered before the dismissal of the suit. When a~~
 2675 ~~claimant's suit is dismissed pursuant to subsection (5), the~~
 2676 ~~court may award to the insurer reasonable attorney fees and~~
 2677 ~~costs associated with securing the dismissal.~~

2678 ~~(c) In awarding attorney fees under this subsection, a~~
 2679 ~~strong presumption is created that a lodestar fee is sufficient~~
 2680 ~~and reasonable. Such presumption may be rebutted only in a rare~~
 2681 ~~and exceptional circumstance with evidence that competent~~
 2682 ~~counsel could not be retained in a reasonable manner.~~

2683 Section 18. Section 627.70154, Florida Statutes, is created
 2684 to read:

2685 627.70154 Mandatory binding arbitration.—A property
 2686 insurance policy issued in this state may not require that a
 2687 policyholder participate in mandatory binding arbitration unless
 2688 all of the following apply:

2689 (1) The mandatory binding arbitration requirements are
 2690 contained in a separate endorsement attached to the property
 2691 insurance policy.

2692 (2) The premium that a policyholder is charged for the
 2693 policy includes an actuarially sound credit or premium discount
 2694 for the mandatory binding arbitration endorsement.

2695 (3) The policyholder signs a form electing to accept
 2696 mandatory binding arbitration. The form must notify the
 2697 policyholder of the rights given up in exchange for the credit

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2698 or premium discount, including, but not limited to, the right to
 2699 a trial by jury.

2700 (4) The endorsement establishes that an insurer will comply
 2701 with the mediation provisions set forth in s. 627.7015 before
 2702 the initiation of arbitration.

2703 (5) The insurer also offers the policyholder a policy that
 2704 does not require that the policyholder participate in mandatory
 2705 binding arbitration.

2706 Section 19. Subsections (9), (14), and (15) of section
 2707 627.7074, Florida Statutes, are amended to read:

2708 627.7074 Alternative procedure for resolution of disputed
 2709 sinkhole insurance claims.—

2710 (9) Evidence of an offer to settle a claim during the
 2711 neutral evaluation process, as well as any relevant conduct or
 2712 statements made in negotiations concerning the offer to settle a
 2713 claim, is inadmissible to prove liability or absence of
 2714 liability for the claim or its value, ~~except as provided in~~
 2715 ~~subsection (14).~~

2716 (14) ~~If the neutral evaluator verifies the existence of a~~
 2717 ~~sinkhole that caused structural damage and recommends the need~~
 2718 ~~for and estimates costs of stabilizing the land and any covered~~
 2719 ~~buildings and other appropriate remediation or building repairs~~
 2720 ~~which exceed the amount that the insurer has offered to pay the~~
 2721 ~~policyholder, the insurer is liable to the policyholder for up~~
 2722 ~~to \$2,500 in attorney's fees for the attorney's participation in~~
 2723 ~~the neutral evaluation process. For purposes of this subsection,~~
 2724 ~~the term "offer to pay" means a written offer signed by the~~
 2725 ~~insurer or its legal representative and delivered to the~~
 2726 ~~policyholder within 10 days after the insurer receives notice~~

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2727 ~~that a request for neutral evaluation has been made under this~~
 2728 ~~section.~~

2729 ~~(15)~~ If the insurer timely agrees in writing to comply and
 2730 timely complies with the recommendation of the neutral
 2731 evaluator, but the policyholder declines to resolve the matter
 2732 in accordance with the recommendation of the neutral evaluator
 2733 pursuant to this section:

2734 (a) The insurer is not liable for extracontractual damages
 2735 related to a claim for a sinkhole loss but only as related to
 2736 the issues determined by the neutral evaluation process. This
 2737 section does not affect or impair claims for extracontractual
 2738 damages unrelated to the issues determined by the neutral
 2739 evaluation process contained in this section; and

2740 (b) The actions of the insurer are not a confession of
 2741 judgment or admission of liability, ~~and the insurer is not~~
 2742 ~~liable for attorney's fees under s. 627.428 or other provisions~~
 2743 ~~of the insurance code unless the policyholder obtains a judgment~~
 2744 ~~that is more favorable than the recommendation of the neutral~~
 2745 ~~evaluator.~~

2746 Section 20. Effective March 1, 2023, section 627.7142,
 2747 Florida Statutes, is amended to read:

2748 627.7142 Homeowner Claims Bill of Rights.—An insurer
 2749 issuing a personal lines residential property insurance policy
 2750 in this state must provide a Homeowner Claims Bill of Rights to
 2751 a policyholder within 14 days after receiving an initial
 2752 communication with respect to a claim. The purpose of the bill
 2753 of rights is to summarize, in simple, nontechnical terms,
 2754 existing Florida law regarding the rights of a personal lines
 2755 residential property insurance policyholder who files a claim of

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2756 loss. The Homeowner Claims Bill of Rights is specific to the
 2757 claims process and does not represent all of a policyholder's
 2758 rights under Florida law regarding the insurance policy. The
 2759 Homeowner Claims Bill of Rights does not create a civil cause of
 2760 action by any individual policyholder or class of policyholders
 2761 against an insurer or insurers. The failure of an insurer to
 2762 properly deliver the Homeowner Claims Bill of Rights is subject
 2763 to administrative enforcement by the office but is not
 2764 admissible as evidence in a civil action against an insurer. The
 2765 Homeowner Claims Bill of Rights does not enlarge, modify, or
 2766 contravene statutory requirements, including, but not limited
 2767 to, ss. 626.854, 626.9541, 627.70131, 627.7015, and 627.7074,
 2768 and does not prohibit an insurer from exercising its right to
 2769 repair damaged property in compliance with the terms of an
 2770 applicable policy or ss. 627.7011(6)(e) and 627.702(7). The
 2771 Homeowner Claims Bill of Rights must state:

2772 HOMEOWNER CLAIMS
 2773 BILL OF RIGHTS

2774 This Bill of Rights is specific to the claims process
 2775 and does not represent all of your rights under
 2776 Florida law regarding your policy. There are also
 2777 exceptions to the stated timelines when conditions are
 2778 beyond your insurance company's control. This document
 2779 does not create a civil cause of action by an
 2780 individual policyholder, or a class of policyholders,
 2781 against an insurer or insurers and does not prohibit
 2782 an insurer from exercising its right to repair damaged
 2783 property in compliance with the terms of an applicable
 2784

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2785 policy.

2786

2787 YOU HAVE THE RIGHT TO:

2788 1. Receive from your insurance company an
2789 acknowledgment of your reported claim within 7 ~~14~~ days
2790 after the time you communicated the claim.

2791 2. Upon written request, receive from your
2792 insurance company within 30 days after you have
2793 submitted a complete proof-of-loss statement to your
2794 insurance company, confirmation that your claim is
2795 covered in full, partially covered, or denied, or
2796 receive a written statement that your claim is being
2797 investigated.

2798 3. Receive from your insurance company a copy of
2799 any detailed estimate of the amount of the loss within
2800 7 days after the estimate is generated by the
2801 insurance company's adjuster.

2802 4. Within 60 ~~90~~ days, subject to any dual
2803 interest noted in the policy, receive full settlement
2804 payment for your claim or payment of the undisputed
2805 portion of your claim, or your insurance company's
2806 denial of your claim.

2807 5.4 Receive payment of interest, as provided in
2808 s. 627.70131, Florida Statutes, from your insurance
2809 company, which begins accruing from the date your
2810 claim is filed if your insurance company does not pay
2811 full settlement of your initial, reopened, or
2812 supplemental claim or the undisputed portion of your
2813 claim or does not deny your claim within 60 ~~90~~ days

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2814 after your claim is filed. The interest, if
2815 applicable, must be paid when your claim or the
2816 undisputed portion of your claim is paid.

2817 ~~6.5~~ Free mediation of your disputed claim by the
2818 Florida Department of Financial Services, Division of
2819 Consumer Services, under most circumstances and
2820 subject to certain restrictions.

2821 ~~7.6~~ Neutral evaluation of your disputed claim,
2822 if your claim is for damage caused by a sinkhole and
2823 is covered by your policy.

2824 ~~8.7~~ Contact the Florida Department of Financial
2825 Services, Division of Consumer Services' toll-free
2826 helpline for assistance with any insurance claim or
2827 questions pertaining to the handling of your claim.
2828 You can reach the Helpline by phone at ...(toll-free
2829 phone number)..., or you can seek assistance online at
2830 the Florida Department of Financial Services, Division
2831 of Consumer Services' website at ...(website
2832 address)...

2833

2834 YOU ARE ADVISED TO:

2835 1. File all claims directly with your insurance
2836 company.

2837 2. Contact your insurance company before entering
2838 into any contract for repairs to confirm any managed
2839 repair policy provisions or optional preferred
2840 vendors.

2841 3. Make and document emergency repairs that are
2842 necessary to prevent further damage. Keep the damaged

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2843 property, if feasible, keep all receipts, and take
2844 photographs or video of damage before and after any
2845 repairs to provide to your insurer.

2846 4. Carefully read any contract that requires you
2847 to pay out-of-pocket expenses or a fee that is based
2848 on a percentage of the insurance proceeds that you
2849 will receive for repairing or replacing your property.

2850 5. Confirm that the contractor you choose is
2851 licensed to do business in Florida. You can verify a
2852 contractor's license and check to see if there are any
2853 complaints against him or her by calling the Florida
2854 Department of Business and Professional Regulation.
2855 You should also ask the contractor for references from
2856 previous work.

2857 6. Require all contractors to provide proof of
2858 insurance before beginning repairs.

2859 7. Take precautions if the damage requires you to
2860 leave your home, including securing your property and
2861 turning off your gas, water, and electricity, and
2862 contacting your insurance company and provide a phone
2863 number where you can be reached.

2864 Section 21. Paragraphs (a) and (b) of subsection (2) and
2865 subsection (13) of section 627.7152, Florida Statutes, are
2866 amended to read:

2867 627.7152 Assignment agreements.—

2868 (2) (a) An assignment agreement must:

2869 1. Be executed under a residential property insurance
2870 policy or under a commercial property insurance policy as that
2871 term is defined in s. 627.0625(1), issued on or after July 1,

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2872 2019, and before January 1, 2023.

2873 2. Be in writing and executed by and between the assignor
2874 and the assignee.

2875 ~~3.2.~~ Contain a provision that allows the assignor to
2876 rescind the assignment agreement without a penalty or fee by
2877 submitting a written notice of rescission signed by the assignor
2878 to the assignee within 14 days after the execution of the
2879 agreement, at least 30 days after the date work on the property
2880 is scheduled to commence if the assignee has not substantially
2881 performed, or at least 30 days after the execution of the
2882 agreement if the agreement does not contain a commencement date
2883 and the assignee has not begun substantial work on the property.

2884 ~~4.3.~~ Contain a provision requiring the assignee to provide
2885 a copy of the executed assignment agreement to the insurer
2886 within 3 business days after the date on which the assignment
2887 agreement is executed or the date on which work begins,
2888 whichever is earlier. Delivery of the copy of the assignment
2889 agreement to the insurer may be made:

2890 a. By personal service, overnight delivery, or electronic
2891 transmission, with evidence of delivery in the form of a receipt
2892 or other paper or electronic acknowledgment by the insurer; or

2893 b. To the location designated for receipt of such
2894 agreements as specified in the policy.

2895 ~~5.4.~~ Contain a written, itemized, per-unit cost estimate of
2896 the services to be performed by the assignee.

2897 ~~6.5.~~ Relate only to work to be performed by the assignee
2898 for services to protect, repair, restore, or replace a dwelling
2899 or structure or to mitigate against further damage to such
2900 property.

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2901 ~~7.6-~~ Contain the following notice in 18-point uppercase and
 2902 boldfaced type:

2903
 2904 YOU ARE AGREEING TO GIVE UP CERTAIN RIGHTS YOU HAVE
 2905 UNDER YOUR INSURANCE POLICY TO A THIRD PARTY, WHICH
 2906 MAY RESULT IN LITIGATION AGAINST YOUR INSURER. PLEASE
 2907 READ AND UNDERSTAND THIS DOCUMENT BEFORE SIGNING IT.
 2908 YOU HAVE THE RIGHT TO CANCEL THIS AGREEMENT WITHOUT
 2909 PENALTY WITHIN 14 DAYS AFTER THE DATE THIS AGREEMENT
 2910 IS EXECUTED, AT LEAST 30 DAYS AFTER THE DATE WORK ON
 2911 THE PROPERTY IS SCHEDULED TO COMMENCE IF THE ASSIGNEE
 2912 HAS NOT SUBSTANTIALLY PERFORMED, OR AT LEAST 30 DAYS
 2913 AFTER THE EXECUTION OF THE AGREEMENT IF THE AGREEMENT
 2914 DOES NOT CONTAIN A COMMENCEMENT DATE AND THE ASSIGNEE
 2915 HAS NOT BEGUN SUBSTANTIAL WORK ON THE PROPERTY.
 2916 HOWEVER, YOU ARE OBLIGATED FOR PAYMENT OF ANY
 2917 CONTRACTED WORK PERFORMED BEFORE THE AGREEMENT IS
 2918 RESCINDED. THIS AGREEMENT DOES NOT CHANGE YOUR
 2919 OBLIGATION TO PERFORM THE DUTIES REQUIRED UNDER YOUR
 2920 PROPERTY INSURANCE POLICY.

2921
 2922 ~~8.7-~~ Contain a provision requiring the assignee to
 2923 indemnify and hold harmless the assignor from all liabilities,
 2924 damages, losses, and costs, including, but not limited to,
 2925 attorney fees.

2926 (b) An assignment agreement may not contain:

- 2927 1. A penalty or fee for rescission under subparagraph (a)3.
 2928 ~~(a)2-;~~
 2929 2. A check or mortgage processing fee;

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- 2930 3. A penalty or fee for cancellation of the agreement; or
 2931 4. An administrative fee.

2932 (13) Except as provided in subsection (11), a policyholder
 2933 may not assign, in whole or in part, any post-loss insurance
 2934 benefit under any residential property insurance policy or under
 2935 any commercial property insurance policy as that term is defined
 2936 in s. 627.0625(1), issued on or after January 1, 2023. An
 2937 attempt to assign post-loss property insurance benefits under
 2938 such a policy is void, invalid, and unenforceable ~~This section~~
 2939 ~~applies to an assignment agreement executed on or after July 1,~~
 2940 ~~2019.~~

2941 Section 22. Paragraph (f) of subsection (3) of section
 2942 627.7154, Florida Statutes, is amended, and paragraph (g) is
 2943 added to that subsection, to read:

2944 627.7154 Property Insurer Stability Unit; duties and
 2945 required reports.—

2946 (3) The insurer stability unit shall, at a minimum:

2947 (f) On January 1 and July 1 of each year, provide a report
 2948 on the status of the homeowners' and condominium unit owners'
 2949 insurance market to the Governor, the President of the Senate,
 2950 the Speaker of the House of Representatives, the Minority Leader
 2951 of the Senate, the Minority Leader of the House of
 2952 Representatives, and the chairs of the legislative committees
 2953 with jurisdiction over matters of insurance showing:

2954 1. Litigation practices and outcomes of insurance
 2955 companies.

2956 2. Percentage of homeowners and condominium unit owners who
 2957 obtain insurance in the voluntary market.

2958 3. Percentage of homeowners and condominium unit owners who

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2959 obtain insurance from the Citizens Property Insurance
2960 Corporation.

2961 4. Profitability of the homeowners' and condominium unit
2962 owners' lines of insurance in this state, including a comparison
2963 with similar lines of insurance in other hurricane-prone states
2964 and with the national average.

2965 5. Average premiums charged for homeowners' and condominium
2966 unit owners' insurance in each of the 67 counties in this state.

2967 6. Results of the latest annual catastrophe stress tests of
2968 all domestic insurers and insurers that are commercially
2969 domiciled in this state.

2970 7. The availability of reinsurance in the personal lines
2971 insurance market.

2972 8. The number of property and casualty insurance carriers
2973 referred to the insurer stability unit for enhanced monitoring,
2974 including the reason for the referral.

2975 9. The number of referrals to the insurer stability unit
2976 which were deemed appropriate for enhanced monitoring, including
2977 the reason for the monitoring.

2978 10. The name of any insurer against which delinquency
2979 proceedings were instituted, including the grounds for
2980 rehabilitation pursuant to s. 631.051 and the date that each
2981 insurer was deemed impaired of capital or surplus, as the terms
2982 impairment of capital and impairment of surplus are defined in
2983 s. 631.011, or insolvent, as the term insolvency is defined in
2984 s. 631.011; a concise statement of the circumstances that led to
2985 the insurer's delinquency; and a summary of the actions taken by
2986 the insurer and the office to avoid delinquency.

2987 11. The name of any insurer that is the subject of a market

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2988 conduct examination that found the insurer exhibited a pattern
2989 or practice of one or more willful unfair insurance trade
2990 practice violations with regard to its use of appraisal,
2991 including, but not limited to, compelling insureds to
2992 participate in appraisal under a property insurance policy in
2993 order to secure full payment or settlement of claims, and a
2994 summary of the findings of such market conduct examination.

2995 12. Recommendations for improvements to the regulation of
2996 the homeowners' and condominium unit owners' insurance market
2997 and an indication of whether such improvements require any
2998 change to existing laws or rules.

2999 13.12- Identification of any trends that may warrant
3000 attention in the future.

3001 (g) Publish on the office's website a list of all insurers
3002 referenced in subparagraph (f)11. and a link to the market
3003 conduct reports regarding such insurers.

3004 Section 23. Subsection (3) of section 631.252, Florida
3005 Statutes, is amended to read:

3006 631.252 Continuation of coverage.—

3007 (3) The 30-day coverage continuation period provided in
3008 paragraph (1) (a) may not in no event be extended unless the
3009 office determines, based on a reasonable belief, that market
3010 conditions are such that policies of residential property
3011 insurance coverage cannot be placed with an authorized insurer
3012 within 30 days and that an additional 15 days is needed to place
3013 such coverage; and failure of actual notice to the policyholder
3014 of the insolvency of the insurer, of commencement of a
3015 delinquency proceeding, or of expiration of the extension period
3016 does not affect such expiration.

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3017 Section 24. Present subsections (6) through (8) of section
3018 768.79, Florida Statutes, are redesignated as subsections (7)
3019 through (9), respectively, and a new subsection (6) is added to
3020 that section, to read:

3021 768.79 Offer of judgment and demand for judgment.—

3022 (6) For a breach of contract action, a property insurer may
3023 make a joint offer of judgment or settlement that is conditioned
3024 on the mutual acceptance of all the joint offerees.

3025 Section 25. For the 2022-2023 fiscal year, the sum of
3026 \$1,757,982 in recurring funds is appropriated from the Insurance
3027 Regulatory Trust Fund to the Office of Insurance Regulation with
3028 associated salary rate of 844,464. From these funds, \$1,356,615
3029 is appropriated in the Salaries and Benefits appropriation
3030 category, \$400,000 is appropriated in the Other Personal
3031 Services appropriation category, and \$1,367 is appropriated in
3032 the Transfer to Department of Management Services - Human
3033 Resources Services Purchased Per Statewide Contract
3034 appropriation category. The funds shall be utilized for the
3035 recruitment and retention of personnel within the office to
3036 ensure the ongoing monitoring of insurance company products and
3037 services, as well as the financial condition of licensed
3038 insurance companies. The funds shall be used to implement this
3039 act.

3040 Section 26. Except as otherwise expressly provided in this
3041 act, this act shall take effect upon becoming a law.

12/12/2022

Meeting Date

The Florida Senate
APPEARANCE RECORD

SB 2-A

Bill Number or Topic

Deliver both copies of this form to
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532468

Amendment Barcode (if applicable)

Fiscal Policy

Committee

Name **David Murray**

Phone **813-567-5600**

Address **109 N. Brush St., Sute 350**

Email **dmurray@murraylawgroup.com**

Street

Tampa

FL

33602

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

12/12/2022

Meeting Date

Fiscal Policy

Committee

Name **Richie Kidwell**

Phone **(321) 219-9060**

Address **941 W. Morse Blvd, Suite 100**

Email **info@raflorida.org**

Street

Winter Park

City

FL

State

32789

Zip

The Florida Senate

APPEARANCE RECORD

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SB 2A

Bill Number or Topic

532468

Amendment Barcode (if applicable)

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

12/12/2022

Meeting Date

Fiscal Policy

Committee

The Florida Senate

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SB 2-A

Bill Number or Topic

785432

Amendment Barcode (if applicable)

Name **Ron Haynes**

Phone **813-223-2929**

Address **117 S. Willow Ave., Suite 100**

Email **rhaynes@ligorilaw.com**

Street

Tampa

City

FL

State

33606

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

12/12/2022

Meeting Date

The Florida Senate
APPEARANCE RECORD

SB 2-A

Bill Number or Topic

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242906

Amendment Barcode (if applicable)

Fiscal Policy

Committee

Name **Ron Haynes**

Phone **813-223-2929**

Address **117 S. Willow Ave., Suite 100**

Email **rhaynes@ligorilaw.com**

Street

Tampa

FL

33606

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

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Meeting Date

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Bill Number or Topic

Senate Fiscal Policy

Committee

Amendment Barcode (if applicable)

Name David Altmaier

Phone (850) 413-3140

Address 200 East Gaines

Email insurance.commissioner@flor.com

Street

Tallahassee

City

FL

State

32399

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing: OIR

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

12/12/2022

Meeting Date

Fiscal Policy

Committee

The Florida Senate

APPEARANCE RECORD

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SB 2-A

Bill Number or Topic

Amendment Barcode (if applicable)

Name John Albaugh - citizen

Phone 850-832-4039

Address 209 Virginia Drive

Email _____

Street

Mexico Beach

FL

32456

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

12/12/2022

Meeting Date

The Florida Senate
APPEARANCE RECORD

SB 2-A

Bill Number or Topic

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Fiscal Policy

Committee

Amendment Barcode (if applicable)

Name Natalie Albaugh - citizen

Phone 850-832-4039

Address 209 Virginia Drive

Email _____

Street

Mexico Beach

FL

32456

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flisenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

2-A

12.12.22

Meeting Date

Fiscal Policy

Committee

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Bill Number or Topic

Amendment Barcode (if applicable)

Name Ryan Jones

Phone 727-898-8100

Address 360 Central Avenue

Email rjones@tlsslaw.com

Street

St. Petersburg

FL

33701

City

State

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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12/12/22

Meeting Date

SB 2A

Bill Number or Topic

Fiscal Policy

Committee

Amendment Barcode (if applicable)

Name Caroline Melear

Phone 404 374 3248

Address 410 Pine Tree Ct

Street

Email cmelear@rstreet.org

Atlantis

City

FL

State

33462

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

12.12.22

Meeting Date

Fiscal Policy

Committee

Name Cristina P Cambo

Address 1905 E 7th Ave

Street

Tampa

City

FL

State

33605-3809

Zip

The Florida Senate APPEARANCE RECORD

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2-A

Bill Number or Topic

Amendment Barcode (if applicable)

Phone 813-848-0600

Email cpc@bolin-law.com

Speaking: [X] For [] Against [] Information OR Waive Speaking: [] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[X] I am appearing without compensation or sponsorship.

[] I am a registered lobbyist, representing:

[] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

12-12-2022

2A

Meeting Date

Bill Number or Topic

FP

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N/A

Committee

Amendment Barcode (if applicable)

Name Michael Carlson

Phone 8505449576

Address 215 S. Monroe St. Ste. 835

Email michael.carlson@piff.net

Street

Tallahassee

FL

32301

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Personal Insurance Federation of Florida

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

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Meeting Date

SB21A

Bill Number or Topic

Fiscal Policy

Committee

Amendment Barcode (if applicable)

Name Caitlin Murray

Phone (850) 491-8424

Address 850 S. Gadsden St. Unit 904

Email Cmurray@namic.org

Street

Tallahassee

City

FL

State

32301

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

NAMIC

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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Fiscal Policy Committee

SB 2A Bill Number or Topic

Amendment Barcode (if applicable)

Name Eric DeCampos

Phone 847-987-7104

Address 1111 E. Touhy Ave. Street

Email edecampos@NICB.org

Des Plaines IL 60018 City State Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [x] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:

National Insurance Crime Bureau

[] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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The Florida Senate

APPEARANCE RECORD

SB 2A

12/12/22

Meeting Date

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Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Christine Ashburn

Phone 850-513-3746

Address 2101 Maryland Circle

Email Christine.Ashburn@CitizensFLA.com

Tallahassee FL

32303

Speaking: [] For [] Against [] Information OR Waive Speaking: [X] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

- [] I am appearing without compensation or sponsorship. [X] I am a registered lobbyist, representing: Citizens Property Insurance Corp. [] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Citizens Property Insurance Corp

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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12/12/2022

Meeting Date

The Florida Senate APPEARANCE RECORD

2A

Bill Number or Topic

Fiscal Policy

Committee

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Amendment Barcode (if applicable)

Name William Arnold

Phone 904-472-3633

Address 526 Bay Center Dr
Street

Email warnod@aiiflorida.com

Tampa
City

FL
State

33609
Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

American Integrity Insurance Company

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

12/12/2022

The Florida Senate APPEARANCE RECORD

2A Property Insurance

Meeting Date

Fiscal Policy

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Bill Number or Topic

Committee

Ethan Perry

Amendment Barcode (if applicable)

407-438-1400

Name

Phone

Address

200 S Monroe St.

Email

ethanp@floridarealtors.org

Street

Tallahassee

FL

32301

City

State

Zip

Reset Form

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Realtors

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

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12/12/22

Meeting Date

2A

Bill Number or Topic

FISCAL POLICY

Committee

Amendment Barcode (if applicable)

Name AUSTIN STOWERS

Phone 850 413 5939

Address 200 E GAINES
Street

Email austin.stowers@myfloridacfo.com

TALL
City

FL
State

32312
Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

CFO JIMMY PATRONIS

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 2A

12/12/2022

Meeting Date

Fiscal Policy

Committee

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Bill Number or Topic

Amendment Barcode (if applicable)

Name **Chad Kunde**

Phone **(850) 766-7896**

Address **136 S Bronough St**

Email **ckunde@flchamber.com**

Street

Tallahassee

FL

32301

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Chamber of Commerce

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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SB 2-A - Property Insurance

Bill Number or Topic

Amendment Barcode (if applicable)

12/12/22

Meeting Date

Fiscal Policy

Committee

Name George Feijoo ("Fay-Jew")

Phone 305 720 7099

Address 108 S. Monroe St.

Email gfeijoo@flapartners.com

Street

Tallahassee

FL

32301

City

State

Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [x] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:

[] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Florida Insurance Council

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 2A

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Bill Number or Topic

Amendment Barcode (if applicable)

12/12/22 Meeting Date

Fiscal Policy Committee

Richie Kidwell Name

~~321~~-321-219-9060 Phone

941 W. Morse Blvd Address Street

info@RAFlorida.org Email

Winter Park FL 32789 City State Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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12/12/22

Meeting Date

Fiscal Policy

Committee

Name Adam Basford

Address 516 N Adams St

Street

Tallahassee

City

FL

State

32301

Zip

The Florida Senate

APPEARANCE RECORD

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2A

Bill Number or Topic

Amendment Barcode (if applicable)

Phone 352.538.4299

Email abasford@if.com

Speaking: [X] For [] Against [] Information OR Waive Speaking: [] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[X] I am a registered lobbyist, representing:

Associated Industries of Florida

[] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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S-001 (08/10/2021)

12.12.22

Meeting Date

Fiscal Policy

Committee

Name Katelyn Ferry

Address 1905 E 7th Ave

Street

Tampa

City

FL

State

33605-3809

Zip

Phone 813-848-0600

Email kmf@bolin-law.com

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2-A

Bill Number or Topic

Amendment Barcode (if applicable)

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

12/12/2022

Meeting Date

The Florida Senate
APPEARANCE RECORD

SB 2-A

Bill Number or Topic

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Fiscal Policy

Committee

Amendment Barcode (if applicable)

Name **David Murray**

Phone **813-567-5600**

Address **109 N. Brush St., Sute 350**

Email **dmurray@murraylawgroup.com**

Street

Tampa

FL

33602

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

12.12.22

Meeting Date

Fiscal Policy

Committee

Name Aram Megerian

Address 4301 West Boy Scout Boulevard

Street

Tampa

City

FL

State

33607

Zip

Phone (813) 289-9300

Email aram.megerian@csklegal.com

2A

Bill Number or Topic

Amendment Barcode (if applicable)

The Florida Senate APPEARANCE RECORD

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Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Justice Reform Institute

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

12/12/2022

Meeting Date

The Florida Senate APPEARANCE RECORD

SB 2-A

Bill Number or Topic

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Fiscal Policy

Committee

Amendment Barcode (if applicable)

Name Ron Haynes

Phone 813-223-2929

Address 117 S. Willow Ave., Suite 100

Email rhaynes@ligorilaw.com

Street

Tampa

FL

33606

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(fisenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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12/12/22

Meeting Date

SB 2-A

Bill Number or Topic

Fiscal Policy

Committee

Amendment Barcode (if applicable)

Name Dr. Rich Templin

Phone 850 - 224 - 6826

Address 135 S. Monroe

Email _____

Street

Tallahassee

City

FL

State

32301

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida AFL-CIO

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: SB 4-A

INTRODUCER: Senator Hutson

SUBJECT: Disaster Relief

DATE: December 12, 2022

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------------|----------------|-----------|------------------|
| 1. | <u>Hackett/Hunter</u> | <u>Ryon</u> | <u>CA</u> | Favorable |
| 2. | <u>Hackett/Hunter</u> | <u>Yeatman</u> | <u>FP</u> | Favorable |

I. Summary:

SB 4-A provides for a number of disaster relief efforts in the wake of the 2022 hurricane season, in which 2 disastrous hurricanes struck the state of Florida, resulting in widespread destruction of homes, infrastructure, agricultural lands, beaches, and more.

On September 28, 2022, Hurricane Ian made landfall in southwest Florida as a high-end Category 4 storm which brought heavy rainfall, deadly storm surge, and extensive wind damage to Florida. Just two months later, Hurricane Nicole made landfall on Florida's east coast causing residential damage, flooding, and shoreline erosion on coastal communities and exacerbated the impacts of Hurricane Ian.

The bill provides the following provisions to further supplement hurricane relief efforts across the state:

- Extends the due dates for property taxes levied in 2022 for property owners whose property was destroyed or rendered uninhabitable by Hurricanes Ian or Nicole.
- Authorizes property tax refunds for residential properties that were made uninhabitable for at least 30 days by either hurricane for the portion of the year that the residence was unusable.
- Appropriates \$350 million from the General Revenue Fund to the Division of Emergency Management (DEM) to provide the full match requirement for FEMA Public Assistance grants to local governments affected by the two hurricanes.
- Appropriates \$150 million from the General Revenue Fund to the Florida Housing Finance Corporation, of which \$60 million shall be provided to local governments to assist persons with the repair or replacement of housing, relocation costs, housing reentry assistance, and insurance deductibles. \$90 million shall be used to fund the Rental Recovery Loan Program to promote development and rehabilitation of affordable housing in affected areas.
- Appropriates \$251.5 million from the General Revenue Fund to the Department of Environmental Protection (DEP) for:
 - Beach erosion projects (\$100 million)
 - Hurricane Reimbursement Grant Program (\$50 million)

- Hurricane Stormwater and Wastewater Assistance Grant Program (\$100 million)
- DEP administrative costs (\$1.5 million).
- Provides for the creation of a direct-support organization for the DEM to provide assistance, funding, and support to DEM in its disaster response, recovery, and relief efforts for natural emergencies.

The bill takes effect upon becoming a law, except as otherwise provided.

II. Present Situation:

Presidential Disaster and Emergency Declarations

When there is a disaster in the United States, the Governor of an affected state must request an emergency and major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.¹ All emergency and disaster declarations are made at the discretion of the President of the United States.² There are two types of disaster declarations, emergency declarations and major disaster declarations.³ Both declarations allow for federal assistance to states and local governments, however they differ in scope, types, and amount of assistance available.⁴

The President can declare an emergency for any occasion where federal assistance is deemed necessary, and emergency declarations provide emergency services from the federal government in such cases. The total amount of assistance from an emergency declaration cannot exceed \$5 million unless reported to Congress.⁵

Following a request from the Governor, the President can declare a major disaster for any natural event, including hurricanes if the President deems that the disaster is of such a severity that it will exhaust resources available from state and local governments.⁶ A major disaster declaration makes a wide range of federal assistance resources available for individuals and states for emergency and permanent work.⁷

Hurricane Ian

On September 28, 2022, Hurricane Ian made landfall in southwest Florida as a high-end Category 4 storm which brought heavy rainfall, deadly storm surge, and extensive wind damage to Florida.⁸ The storm maintained sustained winds of 150 mph as it hit the peninsula, tying it for fifth strongest recorded storm to make landfall in the United States.⁹ The storm's combination of

¹ 2 U.S.C. §§ 5121-5207

² FEMA, *How a Disaster Gets Declared*, available at: <https://www.fema.gov/disaster/how-declared> (last visited Dec. 7, 2022.)

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ National Environmental Satellite Data and Information Service, *Hurricane Ian's Path of Destruction*, available at: <https://www.nesdis.noaa.gov/news/hurricane-ians-path-of-destruction> (last visited Dec. 2, 2022).

⁹ *Id.*

size, severe winds, heavy rainfall, and extraordinary storm surge caused damage and property loss across Florida, and especially in southwest Florida. After landfall, more than 2.6 million utility customers were without power.¹⁰ Infrastructure in Southwest Florida was significantly impacted including the washing away of many structures on the barrier islands of Fort Myers Beach, Captiva, Sanibel, and Pine Island. The sole bridge to Pine Island, as well as the Sanibel Causeway Bridge, were significantly damaged which cut off access by land to those islands.

According to the National Oceanic and Atmospheric Administration (NOAA), since 1980, five hurricanes have produced \$20+ billion in damage costs in Florida — Andrew (1992), Charley (2004), Wilma (2005), Irma (2017), and Michael (2018). Hurricanes Andrew and Irma produced the highest damage totals in Florida with approximately \$50 billion for each storm. With damage assessments still ongoing, Hurricane Ian's impact is anticipated to reach or exceed this level of total direct costs.¹¹

Days prior to landfall, on September 23, 2022, Governor DeSantis issued Executive Order 22-218,¹² declaring a state of emergency for several counties due to the dangers of Tropical Depression Nine, which would become Hurricane Ian.¹³ Governor DeSantis requested an expedited major disaster declaration on September 28, 2022, and a preliminary damage assessment quickly determined that the event was of the severity and magnitude that substantial federal disaster assistance would be necessary. On September 29, 2022, President Biden made a major disaster declaration for the state of Florida.¹⁴ On November 21, 2022, Governor DeSantis issued Executive order 22-268 which renewed the state of emergency for 60 days.¹⁵

Hurricane Nicole

On November 7, 2022, Governor DeSantis issued Executive Order 22-253, declaring a state of emergency for several counties due to the dangers of subtropical storm Nicole which had formed east of the Bahamas.¹⁶ The storm increased its intensity and made landfall as a Category 1 hurricane near Vero Beach on Florida's east coast bringing beach erosion, heavy rainfall, and coastal and river flooding, but decreased to a tropical storm for the majority of the time it impacted Florida.¹⁷ The impacts of Hurricane Nicole on coastal communities exacerbated the impacts that Hurricane Ian had on the same areas.

¹⁰ NOAA, *Hurricane Ian Special Summary*, available at:

<https://www.ncei.noaa.gov/access/monitoring/monthly-report/national/202209/supplemental/page-5> (last visited Dec. 7, 2022).

¹¹ *Id.*

¹² State of Florida Executive Order 22-218, available at: <https://www.flgov.com/wp-content/uploads/2022/09/EO-22-218.pdf> (last visited Dec. 2, 2022).

¹³ *Id.*

¹⁴ FEMA, *Declaration of Major Disaster for Hurricane Ian* (DR-4673-FL), available at: [DR-4673-FL EHP Public Notice 001 | FEMA.gov](https://www.fema.gov/DR-4673-FL-EHP-Public-Notice-001) (last visited December 7, 2022).

¹⁵ State of Florida Executive Order 22-218, available at: <https://www.flgov.com/wp-content/uploads/2022/11/EO-22-268.pdf> (last visited Dec. 2, 2022).

¹⁶ *Id.*

¹⁷ Executive Office of the Governor, *Florida Responds to Impacts from Tropical Storm Nicole*, available at: <https://www.flgov.com/2022/11/10/florida-responds-to-impacts-from-tropical-storm-nicole/> (last visited Dec. 7, 2022).

Nicole caused significant damage to infrastructure and buildings along the east coast due to storm surge, as well as beach erosion. Portions of scenic Highway A1A required emergency repair caused by the erosion eating away at the highway's shoulder.¹⁸ Homes and other residences were washed away by the ocean due to sand erosion and storm surge.¹⁹ Nicole also caused inland flooding from heavy rainfall causing rivers to jump their banks.²⁰

On November 8, 2022, President Biden made a declaration of emergency for Hurricane Nicole for Florida,²¹ making the state eligible for a subset of emergency federal disaster assistance. On December 2, 2022, Governor DeSantis requested President Biden issue a major disaster declaration for Florida as a result of Hurricane Nicole and authorize additional federal disaster assistance.²²

FEMA Public Assistance Grant Program

FEMA's Public Assistance (PA) Grant Program provides funding to states, tribes, local governments and certain types of private non-profit organizations to assist them in responding to and recovering from presidentially-declared major disasters or emergencies. PA is intended to supplement state and local resources when an incident exceeds their ability to respond and recover. PA is only available after the President declares an emergency or major disaster upon request by the governor of the affected state. Preliminary damage assessments by FEMA, in collaboration with state, local, and tribal governments, are used to determine if the estimated cost of assistance exceeds certain thresholds and whether PA should be authorized. In Florida, once PA is authorized, the Florida Division of Emergency Management (DEM) becomes the primary PA grant recipient. State, tribal, and local governments, as well as eligible non-profit entities, may then apply for funding as "applicants." Applicants must submit a request for grant funds to the DEM, which evaluates eligibility for PA with FEMA.²³

PA funds are categorized broadly as either "emergency work" or "permanent work." Within those two broad categories are separate sub-categories, as provided in the chart below.²⁴ Emergency work²⁵ (Categories A and B) may be authorized under an emergency or major disaster declaration. It includes efforts undertaken to save lives and protect property and public health and safety, or to lessen or avert an immediate threat of additional damage. Permanent

¹⁸ *Id.*

¹⁹ CNN, *Beachfront homes in small Florida community washed away by Hurricane Nicole*, available at: <https://www.cnn.com/2022/11/12/us/volusia-county-homes-hurricane-nicole> (last visited Dec. 7, 2022).

²⁰ Click Orlando, *Nicole causes Halifax River to jump banks, flood portions of Port Orange*, available at: <https://www.clickorlando.com/news/local/2022/11/10/hurricane-nicole-causes-halifax-river-to-jump-banks-flooding-portions-of-port-orange/> (last visited Dec. 7, 2022).

²¹ FEMA, *Declaration of Emergency for Tropical Storm Nicole (3587-EM-FL)*, FEMA, available at: <https://www.fema.gov/disaster-federal-register-notice/3587-em-fl-initial-notice> (last visited Dec. 2, 2022).

²² Executive Office of the Governor, *Request for a Major Disaster Declaration (Hurricane Nicole)*, Dec. 2, 2022, on file with Committee on Community Affairs.

²³ Congressional Research Service, *A Brief Overview of FEMA's Public Assistance Program*, available at: <https://crsreports.congress.gov/product/pdf/IF/IF11529> (last visited Dec. 7, 2022).

²⁴ *Id.*

²⁵ The performance period for emergency work is normally within 6 months after the presidential declaration, unless extended.

work²⁶ (Categories C–G) may only be authorized under a major disaster declaration. It includes efforts to repair, restore, reconstruct, or replace disaster-damaged public and eligible private nonprofit facilities.²⁷

| <u>Emergency Work</u> (Emergency and Major Disaster Declaration) | <u>Permanent Work</u> (Major Disaster Declaration only) |
|---|---|
| <ul style="list-style-type: none"> • Category A: Debris removal²⁸ • Category B: Emergency protective measures²⁹ | <ul style="list-style-type: none"> • Category C: Roads and bridges • Category D: Water control facilities • Category E: Public buildings/equipment • Category F: Public utilities • Category G: Parks & rec/other facilities |

PA Cost-sharing

PA funding is subject to a cost-share, of which the federal share may not be less than 75 percent of the eligible costs.³⁰ The federal cost share may be increased beyond 75 percent in limited circumstances, and for limited periods of time, if warranted.³¹

Florida Statutes provides that in cases where the state accepts federal assistance under the PA Program, and such assistance requires matching funds, the state will provide the full match requirement for state agencies and one-half of the required match for local governments.³² However, eligible private non-profits are responsible for the entire required match.

In cases of hardship, local governments can apply to the Executive Office of the Governor for a partial or complete waiver of the required match amount if the local government applies within the first 18 months a disaster is declared.³³

PA for Hurricanes Ian and Nicole

Hurricane Ian

Hurricane Ian-impacted counties are currently eligible for PA, including both emergency and permanent work categories.³⁴ The federal government agreed to fund 100 percent of eligible costs for PA emergency work (debris removal and emergency protective measures) through

²⁶ The performance period for permanent work is normally within 18 months after the presidential declaration, unless extended.

²⁷ FEMA, *Public Assistance Program and Policy Guide*, Version 4, p. 140, available at: https://www.fema.gov/sites/default/files/documents/fema_pappg-v4-updated-links_policy_6-1-2020.pdf (last visited Dec. 7, 2022).

²⁸ Applicants may receive direct assistance or reimbursement for the costs of removing debris and wreckage from public and private property.

²⁹ Applicants may receive direct assistance and reimbursement for work undertaken to save lives and protect property (e.g., search and rescue, emergency transportation, and distribution of food and first aid).

³⁰ *Supra* note 27 at p. 25.

³¹ *Id.*

³² Section 252.37(5)(a), F.S.

³³ Section 252.37(5)(b), F.S.

³⁴ See FEMA, *Florida Hurricane Ian, Designated Areas: Disaster 4673*, available at: <https://www.fema.gov/disaster/4673/designated-areas> (last visited Dec. 7, 2022).

December 7, 2022.³⁵ The federal cost-share for emergency work is now 75 percent, consistent with the other PA categories for Hurricane Ian.

| Hurricane Ian PA Eligibility (as of Dec. 8, 2022) | |
|---|---------------------------|
| Emergency Work | |
| • Category A: Debris removal | 28 counties ³⁶ |
| • Category B: Emergency protective measures | 67 counties |
| Permanent Work | |
| • Category C: Roads and bridges • Category D: Water control facilities • Category E: Public buildings/equipment • Category F: Public utilities • Category G: Parks & rec/other facilities | 28 counties ³⁷ |

Hurricane Nicole

Hurricane Nicole-impacted counties are currently eligible for PA, emergency protective measures (Category B) only.³⁸ The federal cost-share for this assistance is 75 percent. If Governor DeSantis’ request for a major disaster declaration for Hurricane Nicole is approved, additional PA categories will likely be authorized.

| Hurricane Nicole PA Eligibility (as of Dec. 8, 2022) | |
|---|--|
| Emergency Work | |
| • Category A: Debris removal | 0 |
| • Category B: Emergency protective measures | 61 counties ³⁹ |
| Permanent Work | |
| • Category C: Roads and bridges • Category D: Water control facilities • Category E: Public buildings/equipment • Category F: Public utilities • Category G: Parks & rec/other facilities | Not eligible under emergency declaration |

³⁵ The White House, *President Joseph R. Biden Amends Florida Disaster Declaration*, Nov. 28, 2022, available at: <https://www.whitehouse.gov/briefing-room/statements-releases/2022/11/28/president-joseph-r-biden-jr-amends-florida-disaster-declaration-2/> (last visited Dec. 7, 2022).

³⁶ The 28 eligible counties are: Brevard, Charlotte, Collier, DeSoto, Duval, Flagler, Glades, Hardee, Hendry, Highlands, Hillsborough, Indian River, Lake, Lee, Manatee, Martin, Monroe, Okeechobee, Orange, Osceola, Pinellas, Polk, Putnam, Sarasota, Seminole, St. Johns, Sumter, and Volusia.

³⁷ *Id.*

³⁸ See FEMA, *Florida Tropical Storm Nicole, Designated Areas: Disaster 3587*, available at: <https://www.fema.gov/disaster/3587/designated-areas> (last visited Dec. 7, 2022).

³⁹ The six counties that are not eligible are: Escambia, Santa Rosa, Okaloosa, Walton, Bay, and Monroe.

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.⁴⁰ The property appraiser annually determines the assessed or “just value”⁴¹ of property within the taxing jurisdiction and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”⁴² Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes⁴³ and limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁴⁴

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁴⁵ however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for noncommercial recreational purposes; land used for conservation purposes; historic properties when authorized by the county or municipality; and certain working waterfront property.⁴⁶

The Value Adjustment Board Process

Each county has a Value Adjustment Board (VAB), comprised of two members of the governing body of the county, one member of the school board, and two citizen members appointed by the governing body of the county.⁴⁷ The county clerk acts as the clerk of the VAB.⁴⁸ A property owner may initiate an assessment valuation challenge by filing a petition with the clerk of the VAB within 25 days after the mailing of the TRIM notice.⁴⁹

⁴⁰ Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

⁴¹ Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

⁴² *See* s. 192.001(2) and (16), F.S.

⁴³ FLA. CONST. art. VII, s. 1(a).

⁴⁴ *See* FLA. CONST. art. VII, s. 4.

⁴⁵ Section 193.011(2), F.S.

⁴⁶ FLA. CONST. art. VII, s. 4.

⁴⁷ Section 194.015, F.S.

⁴⁸ *Id.*

⁴⁹ Section 194.011(3)(d), F.S. With respect to an issue involving the denial of an exemption, an agricultural or high-water recharge classification application, an application for classification as historic property used for commercial or certain nonprofit purposes, or a deferral, the petition must be filed at any time during the taxable year on or before the 30th day following the mailing of the notice by the property appraiser.

The clerk of the VAB will schedule the petition for a hearing, during which a special magistrate will hear testimony and make a recommendation to the VAB on how the petition should be resolved.⁵⁰ The VAB renders a written decision within 20 calendar days after the last day the VAB is in session.⁵¹ The decision of the VAB must contain findings of fact and conclusions of law and must include reasons for upholding or overturning the determination of the property appraiser.⁵² The clerk of the VAB, upon issuance of a decision, must notify each taxpayer and the property appraiser of the decision of the VAB.⁵³

The VAB must meet between 30 and 60 days after receiving a notice of objection to an assessment, but not before approval of all or any part of the assessment rolls by the Department of Revenue.⁵⁴ The VAB may, however, meet before Department approval, but not earlier than July 1, to hear certain appeals, such as those related to tax refunds for housing rendered uninhabitable under s. 197.319, F.S.⁵⁵

Ad Valorem Tax Due Dates and Discounts

Taxes are, under normal circumstances, due and payable on November 1 of each year or as soon thereafter as the certified tax roll is received by the tax collector, and delinquent on April 1 following the year in which they are assessed.⁵⁶ Taxes are subject to discount payment periods, which provide discounts at the rate of:

- 4 percent in the month of November;
- 3 percent in the month of December;
- 2 percent in the following month of January; and
- 1 percent in the following month of February.⁵⁷

These dates are adjusted for changes to the date taxes are due and payable, as well as under circumstances including a corrected tax notice being issued.

Taxes are payable as prepayment through four payments based on estimated levies.⁵⁸ A prepayment plan requires payments on July 31, September 30, and December 31 the year in which taxes are assessed, and a final payment by the following March 31. Additionally, a property owner who petitions before the value adjustment board to challenge the assessed value of their property must nonetheless pay all non-ad valorem assessments and make a partial payment of at least 75 percent of the ad valorem taxes prior to delinquency.⁵⁹

⁵⁰ Section 194.035, F.S.

⁵¹ Section 194.034(2), F.S.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ Section 194.032(1)(a), F.S.

⁵⁵ Section 194.032(1)(b), F.S.

⁵⁶ Section 197.333, F.S.

⁵⁷ Section 197.162, F.S.

⁵⁸ Section 197.222, F.S.

⁵⁹ Section 194.014, F.S.

Executive Order 22-242 Extending Due Dates

On October 20, 2022, Governor DeSantis, by executive order, delayed due dates of property taxes for property owners whose property was completely destroyed or otherwise rendered uninhabitable by Hurricane Ian by 60 days.⁶⁰ The affected ad valorem taxes and non-ad valorem assessments levied in 2022 are due and payable on January 1, 2023. Those assessments will become delinquent on June 1, 2023, and all dates or time periods, and associated provisions related to the collection or administration of delinquent taxes and non-ad valorem assessments, are extended based on the June 1, 2023 delinquency date.

The order also provided new tax discount periods for those property owners at the rate of:

- 4 percent in the months of November 2022, December 2022, and January 2023;
- 3 percent in the month of February 2023;
- 2 percent in the month of March 2023; and
- 1 percent in the month of April 2023.

The order further provided that such property owners who prepay estimated taxes by installment pursuant to s. 197.222, F.S., have such payments suspended and extended for 60 days, and any such property owners whose property is subject to partial payment pending value adjustment board action under s. 194.014, F.S., have such payments suspended and tolled for the duration of the order, 60 days from October 20, 2022.

Tax Abatement for Natural Disasters

The Legislature has provided tax relief for property damaged by natural disasters on at least five occasions.⁶¹ In 1988, the Legislature provided an abatement of taxes for properties damaged by windstorms or tornadoes.⁶² To receive the abatement, the property owner was required to file an application with the property appraiser by March 1 of the year following the year in which the windstorm or tornado occurred.⁶³ After making a determination on the validity of the application, the property appraiser was directed to issue an official statement to the tax collector containing the number of months the property was uninhabitable due to the damage or destruction, the value of the property prior to the damage or destruction, the total taxes due on the property as reduced by the number of months the property was uninhabitable, and the amount of the reduction in taxes.⁶⁴

Upon receipt of the official statement, the tax collector reduced the amount of taxes due on the property on the tax collection roll and informed the board of county commissioners and the Department of Revenue (DOR) of the total reduction in taxes for all property in the county receiving the abatement.⁶⁵ The law was applied retroactively to January 1, 1988, and included a repeal effective July 1, 1989.⁶⁶ The language was removed from statute in 1992.⁶⁷

⁶⁰ State of Florida Executive Order 22-242 (on file with Community Affairs Committee).

⁶¹ Chapters 88-101, 98-185, 2004-474, 2007-106, and 2018-118, Laws of Fla.

⁶² Section 196.295(3), F.S., repealed by ch. 92-173, s. 8, Laws of Fla.

⁶³ Section 196.295(3)(a), F.S., repealed by ch. 92-173, s. 8, Laws of Fla.

⁶⁴ Section 196.295(3)(d), F.S., repealed by ch. 92-173, s. 8, Laws of Fla.

⁶⁵ Section 196.295(3)(e)-(f), F.S., repealed by ch. 92-173, s. 8, Laws of Fla.

⁶⁶ Section 196.295(3)(h), F.S., repealed by ch. 92-173, s. 8, Laws of Fla.

⁶⁷ Chapter 92-173, s. 8, Laws of Fla.

Most recently, the Legislature applied a similar process to abate taxes for homestead parcels damaged or destroyed by Hurricanes Hermine and Matthew in 2016 or Hurricane Irma in 2017. If the residential improvement was rendered uninhabitable for at least 30 days due to such a hurricane, taxes initially levied in 2019 could be abated.⁶⁸ The Legislature was required to appropriate funds to fiscally constrained counties to offset the reduction in ad valorem tax revenue resulting from the abatement.⁶⁹

Refund for Residential Improvements Rendered Uninhabitable by Catastrophic Events

In 2022 the Legislature created s. 197.319, F.S., to provide for the prorated refund of property taxes on residential properties rendered uninhabitable by a catastrophic event. The law defines “catastrophic event” as a calamity or misfortune not caused, either directly or indirectly, by the property owner with the intent to destroy the property.⁷⁰

If a residential property is rendered uninhabitable for 30 days or more by a catastrophic event, the property owner may be refunded a portion of their property taxes for the time the property was uninhabitable. To do so, the property owner must file an application for refund with the property appraiser. If the property is restored to an inhabitable condition prior to December 1 of the year in which the catastrophic event occurs, the property owner must file their application for refund no sooner than 30 days after the property is restored. Otherwise, the property owner must file the application no later than March 1 of the year immediately following the catastrophic event.⁷¹ If the property owner fails to file the application by the March 1 deadline due to particular extenuating circumstances, they may file an application for refund and may file a petition to the value adjustment board requesting that the refund be granted.

Along with the application, the property appraiser may request supporting documentation to be submitted, including, but not limited to, utility bills, insurance information, contractors’ statements, building permit applications, or building inspection certificates of occupancy for purposes of determining conditions of uninhabitability and subsequent habitability following any repairs.⁷² After receiving the application, the property appraiser must then investigate the statements contained in the application to determine if the property owner is entitled to a refund of taxes. The applicant may file a petition to the value adjustment board if the property appraiser determines that they are not entitled to a refund.⁷³ If the property appraiser finds that the applicant is entitled to a refund, they must then provide an official written statement to the tax collector within 30 days of making such determination, but no later than April 1 of the year following the date of the catastrophic event providing the following:

- The just value of the property on January 1 of the year in which the catastrophic event occurred
- The number of days the property was uninhabitable
- The postcatastrophic event just value, as determined by the property appraiser

⁶⁸ Chapter 2018-118, s. 17, Laws of Fla. enacting s. 197.318, F.S.

⁶⁹ Section 218.135, F.S., (2018) (Repealed 2019).

⁷⁰ Section 197.319(1)(a), F.S.

⁷¹ Section 197.319(2)(a), F.S.

⁷² *Id.*

⁷³ Section 197.319(d), F.S.

- The percent change in value applicable to the parcel.⁷⁴

Upon receipt of this information, the tax collector will then calculate the damage differential pursuant to this section and process a refund equal to the applicable catastrophic event refund.⁷⁵ By September 1 of each year, the tax collector is required to notify DOR of the total reduction in taxes for all properties that qualified for a refund, and the governing board of each affected local government of the reduction in their taxes as a result of refunds.⁷⁶

The law does not change current law requirements for the payment of property taxes. The relief created by the provision is available to property owners solely as a refund of taxes paid.

This law is effective January 1, 2023, and will first apply to the 2023 tax rolls.

Hurricane Recovery Programs for Housing

Following the 2004 hurricane season, a statewide Hurricane Housing Work Group was created to recommend how best to leverage funding recommended by the Governor for hurricane housing recovery needs. The work group recommended, and the Legislature subsequently funded, the Hurricane Housing Recovery Program (HHRP) and the Rental Recovery Loan Program (RRLP).⁷⁷ As a result of the work group's recommendation, the 2005 Legislature appropriated \$250 million for housing recovery: \$208 million for the HHRP and another \$42 million for the RRLP.⁷⁸ With those resources, and an additional \$93 million appropriation in 2006 for hurricane rental funding, the Florida Housing Finance Corporation (FHFC) states that it assisted over 10,000 families with the HHRP and created over 1,600 units with the RRLP. After the 2018 hurricane season, the 2018 and 2019 General Appropriations Acts included appropriations for the HHRP of \$85 million and the RRLP of \$50 million over the two years.⁷⁹

Additionally, related to recovery from emergencies, s. 420.9073(5), F.S., authorizes FHFC to withhold up to \$5 million of the total amount distributed each fiscal year from the Local Government Housing Trust Fund to provide additional funding to counties and eligible municipalities where a state of emergency has been declared by the Governor. Most recently, related to Hurricane Ian, the FHFC is awarding the \$5 million set aside to local SHIP offices in areas hardest hit by Hurricane Ian to assist residents in Charlotte, Collier, DeSoto, Hardee, Lee, and Sarasota counties to pay home insurance deductibles.⁸⁰

⁷⁴ Section 197.319(2)(e), F.S.

⁷⁵ Section 197.319(3), F.S.

⁷⁶ Section 197.319(5), F.S.

⁷⁷ See FHFC, *2006 Annual Report*, p. 40 and 42, available at https://www.floridahousing.org/docs/default-source/data-docs-and-reports/annual-reports/2006AR_SpreadsPDFweb.pdf (last visited Dec. 9, 2022).

⁷⁸ Chapter 2006-69, Laws of Fla.

⁷⁹ Chapters 2019-115, s. 2316A, and 2020-111, s. 2282A, Laws of Fla. An additional \$10 million was appropriated for first-time homebuyer and down payment assistance in the impacted areas.

⁸⁰ FHFC, *Disaster Relief Resources and Information*, available at <https://www.floridahousing.org/programs/special-programs/ship---state-housing-initiatives-partnership-program/disaster-relief> (last visited Dec. 9, 2022).

Hurricane Housing Recovery Program

The Hurricane Housing Recovery Program was created as a local housing recovery program and modeled after the existing State Housing Incentive Program (SHIP) aimed at assisting homeowners with post-hurricane recovery efforts. The HHRP funds were distributed to local governments using a need-based formula to allow local communities to evaluate and address needs as appropriate. The program required that local governments submit a strategy outlining proposed recovery actions, income levels, and number of units to be served.

Rental Recovery Loan Program

The Rental Recovery Loan Program was created to provide affordable rental units needed to promote the housing recovery needs of local communities. Modeled in part after the State Apartment Incentive Loan (SAIL) Program, the RRLP program allowed the state to leverage existing federal rental financing programs to provide units that served a range of incomes, including extremely low income households, throughout the areas impacted by the hurricanes.

Beach Funding

Funding for Florida's critically eroded beaches is managed by the Beach Management Funding Assistance Program. The program provides grants to local governments (up to 75% of project costs) for beach and inlet management projects to restore and nourish the state's most severely eroded beaches.⁸¹ These projects protect upland structures and infrastructure, provide critical habitat for threatened and endangered species, provide recreational opportunities, and support local economies through tourism.⁸²

The Department of Environmental Protection (DEP) accepts funding requests on an annual basis from local governments and municipalities for beach and inlet management projects.⁸³ To be eligible for funding, projects must be accessible to the public, located on the Gulf of Mexico, Atlantic Ocean or Straits of Florida, be designated by DEP as a critically eroded beach, and be consistent with the state's Strategic Beach Management Plan.⁸⁴

The funds are cost-shared with local governments on local and federally authorized projects, with each level of government contributing about one-third of the cost of the entire program.⁸⁵ This funding has resulted in the restoration and subsequent maintenance of more than 253.1 miles, or 60%, of the state's 422.7 miles of critically eroded beaches.⁸⁶

In FY 2022-2023, DEP received a new appropriation of \$50 million for distribution to beach and inlet management projects, including projects on the annual ranked lists, storm repair projects,

⁸¹ Section 161.101(1), F.S.

⁸² DEP, *Beaches Funding Program*, available at <https://floridadep.gov/rcp/beaches-funding-program> (last visited Dec. 7, 2022).

⁸³ Fla. Admin. Code R. 62B-36.005.

⁸⁴ Fla. Admin. Code Chapter 62B-36. See also DEP, *Beaches Funding Program*, available at: <https://floridadep.gov/rcp/beaches-funding-program> (last visited Dec. 7, 2022).

⁸⁵ DEP, *Beaches Funding Program*, available at: <https://floridadep.gov/rcp/beaches-funding-program> (last visited Dec. 7, 2022).

⁸⁶ *Id.*

and projects on lands managed by the state.⁸⁷ The previous year (FY 2021-2022), DEP received \$100 million for beach and inlet projects.⁸⁸ The appropriation included a provision allowing DEP to waive or reduce the match requirements for beaches impacted by hurricanes or other storm events within communities with a per capita annual income that is less than the state's per capita annual income.⁸⁹ This provision expired July 1, 2022.⁹⁰

Direct-Service Organizations

Direct-support organizations (DSOs) are statutorily created private entities that are generally required to be non-profit corporations and are authorized to carry out specific tasks in support of public entities or public causes. The functions and purpose of a DSO are prescribed by its enacting statute and also, for most, by a written contract with the agency the DSO was created to support. Section 20.058(5), F.S., provides that laws creating or authorizing a DSO repeal on October 1 of the fifth year after enactment, unless reviewed and saved from repeal by the Legislature.

Reporting Requirements

In 2014, the Legislature created s. 20.058, F.S., establishing a comprehensive set of transparency and reporting requirements for DSOs.⁹¹ Specifically, the law requires each DSO to annually submit, by August 1, the following information to the agency it supports:⁹²

- The DSO's name, mailing address, telephone number, and website address;
- The statutory authority or executive order that created the DSO;
- A brief description of the mission and results obtained by the DSO;
- A brief description of the DSO's plans for the next three fiscal years;
- A copy of the DSO's code of ethics; and
- A copy of the DSO's most recent Internal Revenue Service (IRS) Form 990.⁹³

Additionally, the information submitted annually by a DSO must be available on the respective agency's website along with a link to the DSO's website, if one exists,⁹⁴ and the agency must report the above required information to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability along with the agency's recommendation to continue, terminate, or modify the agency's association with the DSO.⁹⁵

⁸⁷ Chapter 2022-156, s. 1778, Laws of Fla.

⁸⁸ Chapter 2021-36, s. 1647, Laws of Fla. *See also* DEP, *Fiscal Year 2021/2022 Financial Summary and Accountability Report* at 3, available at: https://floridadep.gov/sites/default/files/FY21-22_Financial_Summary_Accountability_Report_0.pdf (last visited Dec. 7, 2022).

⁸⁹ Section 161.101(22), F.S.

⁹⁰ *Id.*

⁹¹ Chapter 2014-96, Laws of Fla.

⁹² Section 20.058(1), F.S.

⁹³ The IRS Form 990 is an annual information return required to be filed with the IRS by most organizations exempt from federal income tax under 26 U.S.C. 501.

⁹⁴ Section 20.058(2), F.S. Further, s. 20.058(4), F.S., requires that any contract between an agency and a DSO must be contingent upon the DSO submitting the required information to the agency and posting the information on the agency's website. If a DSO fails to submit the required information to the agency for two consecutive years, the agency head must terminate its contract with the DSO.

⁹⁵ Section 20.058(3), F.S.

Transparency

Section 215.981(1), F.S., generally requires a DSO created or authorized pursuant to law with annual expenditures in excess of \$100,000 to provide for an annual financial audit of its accounts and records.⁹⁶ The audit must be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General and the state agency that created, approved, or administers the DSO. The audit report must be submitted within nine months after the end of the fiscal year to the Auditor General and to the state agency the DSO supports. Additionally, the Auditor General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements of a DSO's accounts and records.⁹⁷

Section 20.05(4), F.S., provides that any contract between an agency and a DSO must be contingent upon the DSO submitting and posting information pursuant to s. 20.058(1) and (2), F.S. The contract must also include a provision for the orderly cessation of operations and reversion to the state of state funds held in trust by the organization within 30 days after its authorizing statute is repealed, the contract is terminated, or the organization is dissolved. If an organization fails to submit the required information for two consecutive years, the agency head shall terminate any contract between the agency and the organization.

Ethics Code

Section 112.3251, F.S., requires a DSO created or authorized pursuant to law to adopt its own ethics code. The ethics code must contain the specified standards of conduct and disclosures provided in ss. 112.313 and 112.3143(2), F.S.⁹⁸ A DSO may adopt additional or more stringent standards of conduct and disclosure requirements and must conspicuously post its code of ethics on its website.⁹⁹

III. Effect of Proposed Changes:

Property Tax

Section 2 amends s. 194.032, F.S., to provide that the value adjustment board may meet prior to the approval of the assessment rolls by the Department of Revenue (DOR), but no earlier than July 1, to hear appeals pertaining to a property appraiser's denial of the refund provided by s. 197.3181, F.S., created by section 3 of this bill.

Section 3 creates s. 197.3181, F.S., to provide for a prorated refund of ad valorem taxes for residential improvements rendered uninhabitable by Hurricanes Ian or Nicole. This section operates similarly to current law s. 197.319, F.S., discussed above, but applies only to those properties rendered uninhabitable due to Hurricane Ian or Hurricane Nicole.

⁹⁶ Section 215.981(2), F.S.

⁹⁷ Section 11.45(3)(d), F.S.

⁹⁸ Some of the standards of conduct and disclosures in ss. 112.313 and 112.3143(2), F.S., include misuse of public position, solicitation or acceptance of gifts, unauthorized compensation, and voting conflicts.

⁹⁹ Section 112.3251, F.S.

Under the section, if a residential improvement is rendered uninhabitable for at least 30 days due to Hurricane Ian or Hurricane Nicole, taxes originally levied and paid for in 2022 may be refunded pro rata based on a “damage differential” calculation. This is calculated by finding the percent change in value from the property’s January 1 value to that value minus that of the residential improvement rendered uninhabitable, then multiplying that percentage by the percentage of the year the improvement was rendered uninhabitable.

The section additionally allows applications for refunds to be filed electronically, no later than April 1, 2023, on a form prescribed by the DOR and furnished by the property appraiser. An applicant must identify the parcel containing the residential improvement rendered uninhabitable, as well as the number of days the improvement was uninhabitable during 2022. This application must be accompanied by supporting documentation and verified under oath. Failure to file such an application by April 1, 2023, waives a property owner’s claim for a refund of taxes under this section.

Upon review, no later than June 1, 2023, the property appraiser must either notify the applicant of ineligibility or notify both the applicant and tax collector if the applicant is eligible for a refund. Applicants found ineligible may file a petition with the value adjustment board requesting that such a refund be granted. Refunds are to be processed by the tax collector upon timely payment of 2022 property taxes by the property owner, or immediately if such taxes have already been paid.

By September 1, 2023, the tax collector is required to notify DOR of the total reduction in taxes for all properties that qualified for a refund, and the governing board of each affected local government of the reduction in their taxes as a result of refunds.

The section applies retroactively to January 1, 2022, and expires January 1, 2024.

Section 4 creates s. 197.3182, F.S., to provide that, notwithstanding 197.333, F.S., for property owners whose property was completely destroyed or otherwise rendered uninhabitable by Hurricanes Ian or Nicole, all ad valorem taxes and non-ad valorem assessments levied in 2022 are due and payable on January 1, 2023. Those assessments will become delinquent on June 1, 2023, and all dates or time periods, and associated provisions related to the collection or administration of delinquent taxes and non-ad valorem assessments, are extended based on the statutory June 1, 2023 delinquency date.

The bill also provides new tax discount periods for those property owners at the rate of:

- 4 percent in the months of November 2022, December 2022, and January 2023;
- 3 percent in the month of February 2023;
- 2 percent in the month of March 2023; and
- 1 percent in the month of April 2023.

The bill further provides that such property owners who prepay estimated taxes by installment pursuant to s. 197.222, F.S., have such payments suspended and extended for 60 days, and any such property owners whose property is subject to partial payment pending value adjustment

board action under s. 194.014, F.S., have such payments suspended and tolled from October 20, 2022, through December 19, 2022.

This section acts as a codification of Executive Order 22-242 and extension thereof to include properties affected by Hurricane Nicole. The section applies retroactively to January 1, 2022, and expires January 1, 2024.

Section 7 provides that the DOR may adopt emergency rules pursuant to s. 120.54(4), F.S., to administer the provisions of the bill. Such emergency rules are effective for 6 months after adoption, subject to renewal pending adoption of permanent rules. The provision expires July 1, 2024.

FEMA Public Assistance

Section 5 amends s. 252.37, F.S., to provide that subject to appropriation, the Legislature intends to provide the entire match requirement for FEMA Public Assistance to local governments within counties designated under disaster declarations for Hurricanes Ian and Nicole on a first-come, first-served basis. To qualify, local governments must enter into agreements with the division to have their match requirements waived and must agree to use an equal amount of funds toward further disaster recovery or mitigation.

The Division of Emergency Management (DEM) must report quarterly to the Executive Office of the Governor and the chair of each legislative appropriations committee on the amount of match requirement waived, agreements entered into with local governments, and the amount of remaining funds available.

This provision expires June 30, 2027.

Section 8 appropriates \$350 million of non-recurring funds from the General Revenue Fund to the DEM to provide the federal match requirement for FEMA Public Assistance grants for local governments, as provided in section 5 of the bill. The balance of this appropriation which is not disbursed by June 30, 2023, may be carried forward for up to 5 years after the effective date of the bill.

DEM Direct-support Organization

Section 6 creates s. 252.70, F.S., which establishes the “Florida Emergency Management Assistance Foundation” (“foundation”), a DSO of the Division of Emergency Management (DEM). The foundation is charged with providing assistance, funding, and support to DEM in its disaster response, recovery, and relief efforts for natural emergencies. The foundation is organized as a Florida not-for-profit corporation recognized as such under s. 501(c)(3) of the Internal Revenue Code.

The foundation exists exclusively to obtain funds; request and receive grants, gifts, supplies, and bequests of moneys; acquire, receive, hold, invest, and administer in its own name securities, funds, or property; and make expenditures to or for the direct or indirect benefit of the division,

political subdivisions of this state, and individuals adversely impacted by a natural emergency occurring within this state.

The foundation is governed by a board of directors of five Florida citizen members appointed by the director of DEM for up to two terms of 3 years. A majority of members must be knowledgeable about emergency management activities and programs, and geographic representation must be considered in their selection. A member of the board may be removed by the director at the recommendation of the board for cause and such vacancy filled for the unserved portion of the term. Board members serve without compensation, save reimbursement for per diem and travel expenses from funds managed by the foundation.

The foundation must operate pursuant to a contract with DEM providing for:

- Approval of the articles of incorporation and bylaws of the foundation by the director of DEM;
- Certification of compliance with contract terms and goals of the state and DEM;
- Reversion of funds and property held by the foundation to DEM if:
 - The foundation is no longer approved by DEM,
 - The foundations fails to maintain federal tax-exempt status, or
 - The foundation ceases to exist;
- Reversion of funds and property to the state if DEM ceases to exist;
- Disclosure of the distinction between DEM and the Foundation to donors and recipients of goods, to include disclosure in promotional and fundraising material;
- Approval by the board of directors of an annual operating budget; and
- Adoption of an ethics code as required by statute.

DEM may permit the use of its property, facilities, and personal services by the foundation through the founding contract setting forth requirements and conditions thereto. This permission requires that the foundation provide equal employment opportunities to all persons regardless of race, color, national origin, gender, age, or religion.

The foundation's fiscal year begins July 1 and ends on the following June 30. By August 1 of each year the foundation must submit to DEM federal non-profit recognition forms. The foundation must also annually submit to DEM a budget and report of contributions by September 30, and comply with statutory annual independent audit requirements.

The section, and therefore the foundation, is repealed December 31, 2024, unless reviewed and saved from repeal by the Legislature.

Affordable Housing

Section 9 appropriates \$150 million in nonrecurring funds from the General Revenue Fund to the Florida Housing Finance Corporation (FHFC). Of these funds:

- \$60 million must be used to fund the Hurricane Housing Recovery Program for eligible counties and municipalities based on FEMA damage assessment data from Hurricanes Ian and Nicole. The funds must be used for hurricane recovery purposes including, but not limited to, repair and replacement of housing; repair, replacement, and relocation assistance for manufactured homes; acquisition of building materials for home repair and construction;

and housing reentry assistance. Up to \$25 million of this amount may be used to provide assistance to homeowners to pay insurance deductibles.

- \$90 million must be used to fund the Rental Recovery Loan Program for eligible counties and municipalities based on FEMA damage assessment data from Hurricanes Ian and Nicole.

FHFC must coordinate with the DEM and the Department of Economic Opportunity to prevent duplication of benefits related to other state or federal programs for recipients of this funding.

Beach Restoration

Section 1 amends s. 161.101, F.S., to provide that, for the following counties, the DEP may waive or reduce the match requirements for local governments for local participation in beach management and erosion control projects: Brevard, Broward, Charlotte, Collier, Duval, Flagler, Indian River, Lee, Manatee, Martin, Nassau, Palm Beach, Saint Johns, Saint Lucie, Sarasota, and Volusia. This subsection expires July 1, 2023.

Section 10 establishes the Hurricane Restoration Reimbursement Grant Program within DEP for the purpose of providing financial assistance to mitigate coastal beach erosion for homeowners whose property was significantly impacted by Hurricanes Ian or Nicole. Through the program DEP will provide grants to eligible recipients in Brevard, Broward, Charlotte, Collier, Duval, Flagler, Indian River, Lee, Manatee, Martin, Nassau, Palm Beach, Saint Johns, Saint Lucie, Sarasota, and Volusia Counties.

Projects eligible for grants include sand replacement and temporary or permanent coastal armoring construction.¹⁰⁰ Properties eligible for financial assistance are: single-family, site-built, residential, homestead property; residential condominiums; and cooperatives. Grant funding may only be used to reimburse property owners for construction costs:

- Related to sand placement or temporary or permanent coastal armoring, rather than repair of residential structures;
- Incurred as a result of preparation for or damage sustained from Hurricanes Ian or Nicole;
- Incurred after September 23, 2022; and
- Permitted, exempt from permitting requirements, or otherwise authorized by law.

The DEP must cost-share with \$1 provided by the property owner and \$1 provided by the state for a maximum of \$150,000 in state funding toward the actual cost of the eligible project. Grants will be awarded on a first come, first served basis based on the receipt of a complete application until funding is exhausted. However, the DEP must prioritize applicants are low-income or moderate-income persons, as defined in s. 420.0004.

Each application must be submitted beginning February 1, 2023, and include evidence that the project meets the criteria set out above. If DEP determines that an application meets the

¹⁰⁰ Coastal “armoring” is the practice of using physical structures to protect shorelines from coastal erosion. Property owners use coastal armoring to stabilize coastal land and protect infrastructure along the coast by building shoreline structures to hold back the sea and prevent sediment loss. These structures include seawalls, breakwaters, and riprap. “What Is Shoreline Armoring?,” National Ocean Service, NOAA, available at <https://oceanservice.noaa.gov/facts/shoreline-armoring.html> (last visited Dec. 9, 2022).

requirements, a cost-share grant agreement will be entered into by both parties. In order to receive a reimbursement payment thereafter, property owners must submit the issued permit, if applicable, and evidence the project complies with such permit's requirements; paid invoices for eligible project costs; and, where applicable, documentation that the eligible project was completed by a licensed professional or contractor.

DEP must adopt emergency rules for the administration of this section before January 31, 2023, and is granted such authority. Such rules shall remain effective for 6 months after adoption. This section expires July 1, 2023.

Stormwater and Wastewater Systems

Section 11 establishes the Hurricane Stormwater and Wastewater Assistance Grant Program for the purpose of providing financial assistance to local governments in Brevard, Broward, Charlotte, Collier, Duval, Flagler, Indian River, Lee, Manatee, Martin, Nassau, Palm Beach, Saint Johns, Saint Lucie, Sarasota, and Volusia Counties and impacted by Hurricanes Ian or Nicole. The program, administered by DEP, will provide grants to counties, municipalities, and special taxing districts that operate a stormwater or wastewater management system.

DEP must adopt emergency rules prescribing the procedure for applications no later than January 31, 2023, and must have information pertaining to the application process available on its website by February 1, 2023. Grant applications must be submitted by eligible parties on or before March 31, 2023, and must provide proof that the applicant's stormwater or wastewater systems sustained damage as a result of Hurricanes Ian or Nicole, and that such damage poses an immediate threat to the public health or the environment if not immediately addressed. Grants may not exceed \$10 million per project, and must be awarded by May 1, 2023.

This section expires July 1, 2023.

DEP Appropriations

Section 12 appropriates \$251.5 million in nonrecurring funds from the General Revenue Fund to DEP as Fixed Capital Outlay for damages related to Hurricanes Ian or Nicole. Of these funds:

- \$100 million is to fund beach erosion projects pursuant to s. 161.101, F.S.;
- \$50 million is to fund the Hurricane Restoration Reimbursement Grant Program;
- \$100 million is to fund the Hurricane Stormwater and Wastewater Assistance Grant Program; and
- \$1.5 million is to be used by DEP for administrative costs.

Section 13 provides that this act shall take effect upon becoming a law, except as otherwise provided.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Article VII, Section 18(b) of the Florida Constitution provides that, except upon the approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989.

This bill reduces the authority of cities and counties to raise revenues by requiring the refund of certain ad valorem taxes, and therefore the mandate provision may apply. If the bill does qualify as a mandate, the final passage must be approved by two-thirds of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The Revenue Estimating Conference determined that the section of the bill that provides refunds of property tax to residential property owners whose properties became uninhabitable will reduce local property taxes in Fiscal Year 2022-2023 by \$18.3 million. The section of the bill that delays the payment deadlines for property tax payments does not affect revenues.

B. Private Sector Impact:

Property owners whose residential properties were rendered uninhabitable by Hurricanes Ian or Nicole will be refunded a portion of 2022 ad valorem taxes. Additionally, those involved in post-disaster recovery, including housing repair or development and beach erosion control construction, will benefit from state expenditures aimed at aiding those efforts.

C. Government Sector Impact:

Local governments will be required to refund a certain amount of ad valorem tax revenue, which will reduce overall funds available. Additionally, property appraisers and tax collectors in affected counties and the Department of Revenue may incur costs associated with administering provisions of the bill.

The bill appropriates \$1.5 million from the General Revenue Fund to the DEP to administer related portions of the bill.

The bill appropriates, from the General Revenue Fund:

- \$350 million to the DEM for local match grants related to FEMA Public Assistance grants.
- \$150 million to the FHFC for hurricane housing recovery programs.
- \$100 million to the DEP for beach management and erosion control.
- \$50 million to the DEP for grants to homeowners and condo associations to mitigate coastal beach erosion.
- \$100 million to the DEP for grants to local governments for stormwater and wastewater systems repairs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 161.101, 194.032, 252.37

This bill creates the following sections of the Florida Statutes: 197.3181, 197.3182, 252.71

This bill creates undesignated sections of Florida law.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Hutson

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1 A bill to be entitled
 2 An act relating to disaster relief; amending s.
 3 161.101, F.S.; authorizing the Department of
 4 Environmental Protection to waive or reduce match
 5 requirements for certain local governments; amending
 6 s. 194.032, F.S.; conforming provisions to changes
 7 made by the act; creating s. 197.3181, F.S.; providing
 8 definitions; authorizing the refund of ad valorem
 9 taxes for residential improvements rendered
 10 uninhabitable by certain hurricanes; providing
 11 procedures and requirements to receive a refund;
 12 requiring property appraisers and tax collectors to
 13 take certain actions; providing construction;
 14 providing retroactive applicability; providing for
 15 expiration; creating s. 197.3182, F.S.; providing for
 16 the extension and suspension of payments and discounts
 17 of certain taxes and assessments; providing for
 18 retroactive operation; providing for expiration;
 19 amending s. 252.37, F.S.; providing legislative
 20 intent; requiring the Division of Emergency Management
 21 and local governments to enter into certain agreements
 22 to receive specified funds; providing requirements for
 23 such agreements; providing for availability of funds;
 24 requiring the division to report progress on a certain
 25 timetable to specified parties; providing for
 26 expiration; creating s. 252.71, F.S.; providing
 27 definitions; providing for the organization and
 28 operation of the Florida Emergency Management
 29 Assistance Foundation within the division; providing

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30 for a board of directors; requiring the foundation to
 31 operate under a written contract with the division;
 32 specifying requirements for such contract; providing
 33 requirements for the governance, organization, and
 34 operations of the foundation; providing for the use of
 35 property, facilities, and personal services of the
 36 division by the foundation; requiring the submission
 37 of annual budgets and reports; requiring an annual
 38 audit; providing for future repeal; authorizing the
 39 Department of Revenue to adopt emergency rules;
 40 providing for the expiration of such authority;
 41 providing appropriations; requiring such
 42 appropriations to be spent in specified ways;
 43 requiring the Florida Housing Finance Corporation to
 44 coordinate with the division and the Department of
 45 Economic Opportunity for a specified purpose; creating
 46 the Hurricane Restoration Reimbursement Grant Program
 47 within the Department of Environmental Protection;
 48 providing purpose and eligibility requirements for
 49 such program; authorizing emergency rulemaking for the
 50 administration of such program; requiring the
 51 department to administer such program; providing
 52 requirements for such administration; providing for
 53 the expiration of such program; specifying that grants
 54 may only be used for reimbursement of specified costs;
 55 requiring cost-sharing; creating the Hurricane
 56 Stormwater and Wastewater Assistance Grant Program
 57 within the Department of Environmental Protection;
 58 providing purpose and eligibility requirements for

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59 such program; authorizing emergency rulemaking for the
60 administration of such program; requiring the
61 department to administer such program; providing
62 requirements for such administration; providing for
63 the expiration of such program; providing
64 appropriations; requiring such appropriations be spent
65 in a specified way; providing an effective date.

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

68
69 Section 1. Subsection (22) of section 161.101, Florida
70 Statutes, is amended to read:

71 161.101 State and local participation in authorized
72 projects and studies relating to beach management and erosion
73 control.—

74 (22) Notwithstanding subsections (1), (15), and (16), and
75 for the 2022-2023 ~~2021-2022~~ fiscal year, for in the event that
76 beaches located in Brevard, Broward, Charlotte, Collier, Duval,
77 Flagler, Indian River, Lee, Manatee, Martin, Nassau, Palm Beach,
78 Saint Johns, Saint Lucie, Sarasota, and Volusia Counties, are
79 impacted by Hurricane Ian hurricanes or Hurricane Nicole other
80 storm events within communities with a per capita annual income
81 that is less than the state's per capita annual income as shown
82 in the most recent release from the United States Census Bureau
83 of the United States Department of Commerce which includes both
84 measurements, the department may waive or reduce the match
85 requirements for local governments. This subsection expires July
86 1, 2023 ~~2022~~.

87 Section 2. Paragraph (b) of subsection (1) of section

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88 194.032, Florida Statutes, is amended to read:

89 194.032 Hearing purposes; timetable.—

90 (1)

91 (b) Notwithstanding the provisions of paragraph (a), the
92 value adjustment board may meet prior to the approval of the
93 assessment rolls by the Department of Revenue, but not earlier
94 than July 1, to hear appeals pertaining to the denial by the
95 property appraiser of exemptions, tax abatements under s.
96 197.3195, tax refunds under ss. 197.3181 and 197.319 ~~e. 197.319~~,
97 agricultural and high-water recharge classifications,
98 classifications as historic property used for commercial or
99 certain nonprofit purposes, and deferrals under subparagraphs
100 (a)2., 3., and 4. In such event, however, the board may not
101 certify any assessments under s. 193.122 until the Department of
102 Revenue has approved the assessments in accordance with s.
103 193.1142 and all hearings have been held with respect to the
104 particular parcel under appeal.

105 Section 3. Section 197.3181, Florida Statutes, is created
106 to read:

107 197.3181 Refund of taxes for residential improvements
108 rendered uninhabitable by Hurricane Ian or Hurricane Nicole.—

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

110 (a) "Damage differential" means the product arrived at by
111 multiplying the percent change in value by a ratio, the
112 numerator of which is the number of days the residential
113 improvement was rendered uninhabitable in 2022, and the
114 denominator of which is 365.

115 (b) "Disaster relief refund" means the product arrived at
116 by multiplying the damage differential by the amount of timely

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117 paid taxes initially levied in 2022.

118 (c) "Percent change in value" means the difference between
 119 the just value of a residential parcel as of January 1, 2022,
 120 and its postdisaster just value, expressed as a percentage of
 121 the just value of the parcel as of January 1, 2022.

122 (d) "Postdisaster just value" means the just value of the
 123 residential parcel on January 1, 2022, adjusted by subtracting
 124 the just value of the residential improvement on January 1,
 125 2022.

126 (e) "Residential improvement" means a residential dwelling
 127 or house on real estate used and owned as a homestead as defined
 128 in s. 196.012(13) or used as nonhomestead residential property
 129 as defined in s. 193.1554(1). A residential improvement does not
 130 include a structure that is not essential to the use and
 131 occupancy of the residential dwelling or house, including, but
 132 not limited to, a detached utility building, detached carport,
 133 detached garage, bulkhead, fence, or swimming pool, and does not
 134 include land.

135 (f) "Uninhabitable" means the loss of use and occupancy of
 136 a residential improvement for the purpose for which it was
 137 constructed resulting from damage to or destruction of, or from
 138 a condition that compromises the structural integrity of, the
 139 residential improvement which was caused by Hurricane Ian or
 140 Hurricane Nicole during the 2022 calendar year.

141 (2) If a residential improvement is rendered uninhabitable
 142 for at least 30 days, taxes originally levied and paid for 2022
 143 may be refunded in the following manner:

144 (a) The property owner must file an application for refund
 145 with the property appraiser on a form prescribed by the

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146 department and furnished by the property appraiser, no sooner
 147 than January 1, 2023, and no later than April 1, 2023. The
 148 property appraiser may allow applications to be filed
 149 electronically.

150 (b) The application for refund must identify the
 151 residential parcel upon which the residential improvement was
 152 rendered uninhabitable and the number of days that the
 153 residential improvement was uninhabitable during 2022. For
 154 purposes of determining uninhabitability, the application must
 155 be accompanied by supporting documentation, including, but not
 156 limited to, utility bills, insurance information, contractors'
 157 statements, building permit applications, or building inspection
 158 certificates of occupancy.

159 (c) The application for refund must be verified under oath
 160 and is subject to penalty of perjury.

161 (d) The property appraiser shall review the application and
 162 determine if the applicant is entitled to a refund of taxes. No
 163 later than June 1, 2023, the property appraiser must:

164 1. Notify the applicant if the property appraiser
 165 determines that the applicant is not entitled to receive a
 166 refund. If the property appraiser determines that the applicant
 167 is not entitled to a refund, the applicant may file a petition
 168 with the value adjustment board, pursuant to s. 194.011(3),
 169 requesting that the refund be granted. The petition must be
 170 filed with the value adjustment board on or before the 30th day
 171 following the issuance of the notice by the property appraiser.

172 2. Issue an official written statement to the tax collector
 173 and the applicant if the property appraiser determines that the
 174 applicant is entitled to a refund. The statement must provide:

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175 a. The just value of the residential improvement as
 176 determined by the property appraiser on January 1, 2022.
 177 b. The number of days during 2022 that the residential
 178 improvement was uninhabitable.
 179 c. The postdisaster just value of the residential parcel as
 180 determined by the property appraiser.
 181 d. The percent change in value applicable to the
 182 residential parcel.
 183 (3) Upon receipt of the written statement from the property
 184 appraiser, the tax collector shall calculate the damage
 185 differential pursuant to this section.
 186 (a) If the property taxes for 2022 have been paid, the tax
 187 collector must process a refund in an amount equal to the
 188 disaster relief refund.
 189 (b) If, at the time of receipt of the written statement
 190 from the property appraiser under this subsection, the property
 191 taxes have not yet been paid pursuant to s. 197.3182, the tax
 192 collector must process a refund in an amount equal to the
 193 disaster relief refund upon receipt of timely payment of the
 194 property taxes for 2022 in accordance with s. 197.3182.
 195 (4) A property owner who fails to file an application by
 196 April 1, 2023, waives a claim for a refund of taxes under this
 197 section.
 198 (5) By September 1, 2023, the tax collector shall notify:
 199 (a) The department of the total reduction in taxes for all
 200 properties that qualified for a refund pursuant to this section.
 201 (b) The governing board of each affected local government
 202 of the reduction in such local government's taxes which occurred
 203 pursuant to this section.

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204 (6) For purposes of this section, a residential improvement
 205 that is uninhabitable has no value.
 206 (7) The disaster relief refund is determined only for
 207 purposes of calculating tax refunds for 2022 under this section
 208 and does not determine a parcel's just value as of January 1,
 209 2023, or any subsequent year.
 210 (8) This section does not affect the requirements of s.
 211 197.333.
 212 (9) This section applies retroactively to January 1, 2022,
 213 and expires January 1, 2024.
 214 Section 4. Section 197.3182, Florida Statutes, is created
 215 to read:
 216 197.3182 Tax deadlines for real property destroyed or
 217 rendered uninhabitable by Hurricane Ian or Hurricane Nicole.—
 218 (1) Notwithstanding any other law, for ad valorem taxes and
 219 non-ad valorem assessments levied in 2022, for all real property
 220 that has been completely destroyed or otherwise rendered
 221 uninhabitable due to damage or destruction caused by Hurricane
 222 Ian or Hurricane Nicole:
 223 (a) The deadlines set forth in s. 197.333 are suspended and
 224 extended as follows:
 225 1. Ad valorem taxes and non-ad valorem assessments levied
 226 in 2022, shall be due and payable on January 1, 2023.
 227 2. Ad valorem taxes and non-ad valorem assessments shall
 228 become delinquent on June 1, 2023.
 229 3. All dates or time periods and their associated
 230 provisions relative to the collection of, or administrative
 231 procedures regarding, delinquent taxes and non-ad valorem
 232 assessments, including, but not limited to, the sale of tax

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233 certificates, are extended based on the June 1, 2023,
 234 delinquency date, in accordance with s. 197.333.

235 (b) The deadlines set forth in s. 197.162 governing
 236 discounts for payments of all taxes assessed on the county tax
 237 rolls and collected by the county tax collector before the
 238 delinquency date are extended as follows:

239 1. Four percent in November 2022, December 2022, and
 240 January 2023.

241 2. Three percent in February 2023.

242 3. Two percent in March 2023.

243 4. One percent in April 2023.

244 5. Zero percent in May 2023.

245 (c) The deadlines set forth in s. 197.222(1)(c) and (d)
 246 governing ad valorem taxes prepaid in installments and the
 247 discounts applied to those payments are suspended and extended
 248 for 60 days.

249 (2) This section operates retroactively to January 1, 2022,
 250 and expires January 1, 2024.

251 Section 5. Paragraph (c) is added to subsection (5) of
 252 section 252.37, Florida Statutes, to read:

253 252.37 Financing.—

254 (5)Unless otherwise specified in the General Appropriations
 255 Act:

256 (c) Subject to appropriation, and notwithstanding paragraph
 257 (a), the Legislature intends to provide the entire match
 258 requirement for Public Assistance Program grants to local
 259 governments within a county designated in the Federal Emergency
 260 Management Agency disaster declarations for Hurricane Ian or
 261 Hurricane Nicole. Local governments named in such Federal

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262 Emergency Management Agency disaster declarations must enter
 263 into agreements with the division to have their portions of the
 264 match requirements waived and must agree to use an equal amount
 265 of funds toward further disaster recovery or mitigation. Funds
 266 shall be allocated on a first-come, first-served basis.
 267 Notwithstanding paragraph (a), a local government in an
 268 agreement with the division under this paragraph is not required
 269 to provide one-half of the required match prior to receipt of
 270 Public Assistance Program financial assistance. The division
 271 shall report quarterly to the Executive Office of the Governor
 272 and the chair of each legislative appropriations committee on
 273 the amount of match requirements waived, agreements entered into
 274 with local governments, and the amount of remaining appropriated
 275 funds. This paragraph expires June 30, 2027.

276 Section 6. Section 252.71, Florida Statutes, is created to
 277 read:

278 252.71 Florida Emergency Management Assistance Foundation.—

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

280 (a) "Foundation" means the Florida Emergency Management
 281 Assistance Foundation for the division.

282 (b) "Personal services" includes full-time or part-time
 283 personnel of the division.

284 (2) The foundation is hereby created as a direct-support
 285 organization of the division to provide assistance, funding, and
 286 support to the division in its disaster response, recovery, and
 287 relief efforts for natural emergencies.

288 (a) The foundation must be an organization that is a
 289 Florida nonprofit corporation incorporated under chapter 617,
 290 approved by the Department of State, and recognized under s.

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291 501(c)(3) of the Internal Revenue Code. The foundation is exempt
 292 from paying fees under s. 617.0122.

293 (b) The foundation is organized and operated exclusively to
 294 obtain funds; request and receive grants, gifts, and bequests of
 295 moneys or other items; acquire, receive, hold, invest, and
 296 administer in its own name securities, funds, or property; and
 297 make expenditures to or for the direct or indirect benefit of
 298 the division, political subdivisions of this state, and
 299 individuals adversely impacted by a natural emergency occurring
 300 within this state.

301 (c) The division must determine that the foundation is
 302 operating in a manner consistent with the goals of the division
 303 and in the best interest of the state.

304 (3) The foundation shall be governed by a board of
 305 directors.

306 (a) The board of directors shall consist of five members
 307 appointed by the director of the division. A majority of the
 308 members must be knowledgeable about emergency management
 309 activities and programs. The importance of geographic
 310 representation shall be considered in appointing members.
 311 Members must be residents of this state at the time of
 312 appointment and throughout their terms.

313 (b) The term of office of the appointed members of the
 314 board of directors shall be 3 years, except that the initial
 315 terms of appointment shall be two members for 1 year, two
 316 members for 2 years, and one member for 3 years. A member may be
 317 reappointed when his or her term expires and may continue to
 318 serve in such capacity upon expiration of his or her term until
 319 an appointment is made to fill the vacancy. However, a member

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320 may not serve more than two consecutive terms.

321 (c) Upon a finding based on a majority vote of the board of
 322 directors, the director of the division may remove any member of
 323 the board for cause.

324 (d) Any vacancy that occurs shall be filled in the same
 325 manner as the original appointment for the unexpired term of
 326 that seat.

327 (e) Members of the board of directors shall serve without
 328 compensation, but are entitled to receive reimbursement for per
 329 diem and travel expenses in accordance with s. 112.061, and
 330 shall be paid from funds managed by the foundation.

331 (f) Moneys of the foundation must be held in a separate
 332 depository account in the name of the foundation, subject to the
 333 provisions of the contract with the division, and shall be used
 334 in a manner consistent with the goals of the foundation.

335 (4) The foundation shall operate under a written contract
 336 with the division. The written contract must, at a minimum,
 337 provide for:

338 (a) Approval of the articles of incorporation and bylaws of
 339 the foundation by the director of the division.

340 (b) Certification by the division that the foundation is
 341 complying with the terms of the contract and is doing so
 342 consistent with the goals and purposes of the division and in
 343 the best interests of the state. The division must make this
 344 certification annually and it must be reported in the official
 345 minutes of a meeting of the foundation.

346 (c) Reversion of moneys and property held by the foundation
 347 to the:

348 1. Division if the foundation is no longer approved to

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349 operate by the division;

350 2. Division if the foundation fails to maintain its tax-
 351 exempt status pursuant to s. 501(c)(3) of the Internal Revenue
 352 Code;

353 3. Division if the foundation ceases to exist; or

354 4. State if the division ceases to exist.

355 (d) Prominent disclosure of the distinction between the
 356 division and the foundation to donors, including such disclosure
 357 in all promotional and fundraising publications or activities.

358 (e) Approval by the board of directors of an annual
 359 operating budget for the foundation.

360 (f) Adoption of an ethics code as required by s. 112.3251.

361 (5) The division may permit the use of its property,
 362 facilities, and personal services by the foundation and shall
 363 set forth any requirements or conditions on such use in the
 364 contract between the division and the foundation, including
 365 provisions governing the use of such property, facilities, and
 366 personal services during a declared state of emergency for a
 367 natural emergency. However, the division may not permit the use
 368 of such property, facilities, or personal services by the
 369 foundation if it does not provide equal employment opportunities
 370 to all persons regardless of race, color, national origin,
 371 gender, age, or religion.

372 (6) (a) The fiscal year of the foundation shall begin on
 373 July 1 of each year and end on June 30 of the following year.

374 (b) By August 1 of each year, the foundation shall submit
 375 to the division its federal Internal Revenue Service Application
 376 for Recognition of Exemption form (Form 1023) and federal
 377 Internal Revenue Service Return of Organization Exempt from

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378 Income Tax form (Form 990).

379 (c) By September 30 of each year, the foundation shall
 380 submit the budget and a report of contributions and expenditures
 381 to the division in a manner prescribed by the division.

382 (7) The foundation shall provide for an annual financial
 383 audit in accordance with s. 215.981.

384 (8) This section is repealed December 31, 2024, unless
 385 reviewed and saved from repeal by the Legislature.

386 Section 7. The Department of Revenue may, and all
 387 conditions are deemed met to, adopt emergency rules pursuant to
 388 s. 120.54(4), Florida Statutes, to administer the creation of
 389 ss. 197.3181 and 197.3182, Florida Statutes, and the amendment
 390 made to s. 194.032, Florida Statutes, by this act.

391 Notwithstanding any other law, emergency rules adopted pursuant
 392 to this section are effective for 6 months after adoption and
 393 may be renewed during the pendency of procedures to adopt
 394 permanent rules addressing the subject of the emergency rules.
 395 This section expires July 1, 2024.

396 Section 8. For the 2022-2023 fiscal year, the nonrecurring
 397 sum of \$350,000,000 from the General Revenue Fund is
 398 appropriated to the Division of Emergency Management within the
 399 Executive Office of the Governor to provide the match
 400 requirement for Public Assistance Program grants pursuant to s.
 401 252.37(5)(c), Florida Statutes, as created by this act.
 402 Appropriated funds may only be used to meet federal match
 403 requirements as provided in s. 252.37(5)(c), Florida Statutes,
 404 as created by this act. Notwithstanding s. 216.301, Florida
 405 Statutes, and pursuant to s. 216.351, Florida Statutes, the
 406 balance of this appropriation which is not disbursed by June 30,

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407 2023, may be carried forward for up to 5 years after the
408 effective date of this act.

409 Section 9. For the 2022-2023 fiscal year, the nonrecurring
410 sum of \$150,000,000 from the General Revenue Fund is
411 appropriated in the Affordable Housing for Hurricane Recovery
412 appropriation category to the Florida Housing Finance
413 Corporation.

414 (1) From these funds, \$60,000,000 shall be used to fund the
415 Hurricane Housing Recovery Program for eligible counties and
416 municipalities based on Hurricane Ian and Hurricane Nicole
417 Federal Emergency Management Agency damage assessment data and
418 population. Hurricane recovery purposes may include, but are not
419 limited to, repair and replacement of housing; repair,
420 replacement, and relocation assistance for manufactured homes;
421 acquisition of building materials for home repair and
422 construction; or housing reentry assistance, such as security
423 deposits, utility deposits, and temporary storage of household
424 furnishings. Of this amount for the Hurricane Housing Recovery
425 Program, up to \$25,000,000 may be used to provide assistance to
426 homeowners to pay insurance deductibles.

427 (2) From these funds, \$90,000,000 shall be used to fund the
428 Rental Recovery Loan Program for eligible counties and
429 municipalities based on Hurricane Ian and Hurricane Nicole
430 Federal Emergency Management Agency damage assessment data and
431 population.

432 (3) The Florida Housing Finance Corporation shall
433 coordinate with the Executive Office of the Governor's Division
434 of Emergency Management and the Department of Economic
435 Opportunity to prevent duplication of benefits related to other

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436 state or federal programs for recipients of funds appropriated
437 under this section.

438 Section 10. Hurricane Restoration Reimbursement Grant
439 Program.—

440 (1) There is hereby created within the Department of
441 Environmental Protection the Hurricane Restoration Reimbursement
442 Grant Program for the purpose of providing financial assistance
443 to mitigate coastal beach erosion for coastal homeowners whose
444 property was significantly impacted by Hurricane Ian or
445 Hurricane Nicole in 2022. The department is authorized to
446 provide financial assistance grants to eligible recipients
447 located in Brevard, Broward, Charlotte, Collier, Duval, Flagler,
448 Indian River, Lee, Manatee, Martin, Nassau, Palm Beach, Saint
449 Johns, Saint Lucie, Sarasota, and Volusia Counties.

450 (2) The department may provide grants to property owners to
451 mitigate for coastal beach erosion caused by Hurricane Ian or
452 Hurricane Nicole during 2022. Grant funding may only be used to
453 reimburse a property owner for construction costs:

454 (a) Related to sand placement and temporary or permanent
455 coastal armoring construction projects to mitigate coastal beach
456 erosion and may not be used for the repair of residential
457 structures.

458 (b) Incurred as a result of preparation for or damage
459 sustained from Hurricane Ian or Hurricane Nicole in 2022.

460 (c) Incurred after September 23, 2022.

461 (d) Related to a project that has been permitted, is exempt
462 from permitting requirements, or is otherwise authorized by law.

463 (3) Financial assistance grants may only be provided to
464 mitigate damage to property located in Brevard, Broward,

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465 Charlotte, Collier, Duval, Flagler, Indian River, Lee, Manatee,
 466 Martin, Nassau, Palm Beach, Saint Johns, Saint Lucie, Sarasota,
 467 and Volusia Counties that is a:

468 (a) Residential property that meets the following
 469 requirements:

470 1. The parcel must be a single-family, site-built,
 471 residential property; and

472 2. The homeowner must have been granted a homestead
 473 exemption on the home under chapter 196, Florida Statutes;

474 (b) Residential condominium, as defined in chapter 718,
 475 Florida Statutes; or

476 (c) Cooperative, as defined in chapter 719, Florida
 477 Statutes.

478 (4) (a) The department shall cost-share with \$1 provided by
 479 the property owner for every \$1 provided by the state with a
 480 maximum of \$150,000 in state funding toward the actual cost of
 481 an eligible project. The department shall prioritize applicants
 482 who are low-income or moderate-income persons, as defined in s.
 483 420.0004, Florida Statutes. Grants will be awarded to property
 484 owners for eligible projects following the receipt of a
 485 completed application on a first-come, first-served basis until
 486 funding is exhausted.

487 1. Applications may be submitted beginning February 1,
 488 2023.

489 2. Applicants must include evidence that the project meets
 490 the criteria in subsections (2) and (3).

491 (b) If the department determines that an application meets
 492 the requirements of this section, the department shall enter
 493 into a cost-share grant agreement with the applicant consistent

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494 with this section.

495 (c) The department shall disburse grant funds on a
 496 reimbursement basis. In order to receive reimbursement, property
 497 owners must submit, at a minimum:

498 1. If applicable, the permit issued under chapter 161,
 499 Florida Statutes, or applicable statute, and evidence that the
 500 project complies with all permitting requirements.

501 2. All invoices and payment receipts for eligible projects.

502 3. If applicable, documentation that the eligible project
 503 was completed by a licensed professional or contractor.

504 (5) No later than January 31, 2023, the department shall
 505 adopt emergency rules prescribing the procedures,
 506 administration, and criteria for approving the applications for
 507 the Hurricane Restoration Reimbursement Grant Program. The
 508 department is authorized, and all conditions are deemed met, to
 509 adopt emergency rules under ss. 120.536(1) and 120.54(4),
 510 Florida Statutes, to implement this section. The Legislature
 511 finds that such emergency rulemaking authority is necessary to
 512 address critical shoreline erosion which may result in the loss
 513 of property by homeowners in those areas of the state that
 514 sustained damage due to Hurricane Ian or Hurricane Nicole during
 515 2022. Such rules shall remain effective for 6 months after the
 516 date of adoption.

517 (6) This section expires July 1, 2023.

518 Section 11. Hurricane Stormwater and Wastewater Assistance
 519 Grant Program.-

520 (1) There is hereby created within the Department of
 521 Environmental Protection the Hurricane Stormwater and Wastewater
 522 Assistance Grant Program for the purpose of providing financial

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523 assistance to local governments located in Brevard, Broward,
 524 Charlotte, Collier, Duval, Flagler, Indian River, Lee, Manatee,
 525 Martin, Nassau, Palm Beach, Saint Johns, Saint Lucie, Sarasota,
 526 and Volusia Counties and impacted by Hurricane Ian or Hurricane
 527 Nicole.

528 (2) The department shall administer the Hurricane
 529 Stormwater and Wastewater Assistance Grant Program to remediate
 530 damage to stormwater and wastewater systems resulting from
 531 Hurricane Ian or Hurricane Nicole.

532 (3) Eligible recipients of such grants include counties,
 533 municipalities, and special taxing districts that operate a
 534 stormwater or wastewater management system.

535 (4) All information pertaining to the grant application
 536 process must be provided on the department's website no later
 537 than February 1, 2023.

538 (5) No later than January 31, 2023, the department must
 539 adopt emergency rules prescribing the procedure and application
 540 for the Hurricane Stormwater and Wastewater Assistance Grant
 541 Program. All conditions are deemed met to adopt such emergency
 542 rules under ss. 120.536(1) and 120.54(4), Florida Statutes, to
 543 implement this section. Such rules shall remain effective for 6
 544 months after the date of adoption.

545 (6) Grant applications must be submitted to the department
 546 on or before March 31, 2023.

547 (7) To be eligible for the program, the applicant must
 548 provide proof that:

549 (a) The applicant's stormwater or wastewater systems
 550 sustained damages as a result of Hurricane Ian or Hurricane
 551 Nicole.

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552 (b) The damage to the stormwater or wastewater system poses
 553 an immediate threat to the public health or the environment if
 554 not immediately addressed.

555 (8) Grants may not exceed \$10 million per project.

556 (9) Grants must be awarded by May 1, 2023.

557 (10) This section expires July 1, 2023.

558 Section 12. For the 2022-2023 fiscal year, the sum of
 559 \$251.5 million in nonrecurring funds is appropriated from the
 560 General Revenue Fund to the Department of Environmental
 561 Protection as follows: \$250 million as Fixed Capital Outlay for
 562 damages related to Hurricane Ian or Hurricane Nicole, including
 563 \$100 million for beach erosion projects as identified in s.
 564 161.101(22), Florida Statutes; \$50 million for the Hurricane
 565 Restoration Reimbursement Grant Program; \$100 million for the
 566 Hurricane Stormwater and Wastewater Assistance Grant Program;
 567 and \$1.5 million as administrative costs for the department to
 568 implement this section.

569 Section 13. This act shall take effect upon becoming a law.

The Florida Senate

APPEARANCE RECORD

SB 4-A

12/12/2022

Meeting Date

Deliver both copies of this form to
Senate professional staff conducting the meeting

Bill Number or Topic

Fiscal Policy

Committee

Amendment Barcode (if applicable)

Name **Zayne Smith**

Phone **(850) 228-4243**

Address **215 South Monroe Suite 603**

Email **zsmith@aarp.org**

Street

Tallahassee

Florida

32301

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

AARP

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4A

Bill Number or Topic

12/12/22

Meeting Date

Fiscal Policy

Committee

Amendment Barcode (if applicable)

Name

Matt Caldwell, Property Appraiser Lee County

Phone

239-533-6100

Address

4580 Thompson Street, 4th Floor

Email

caldwellm@lecpa.org

Street

Fort Myers

City

FL

State

33901

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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The Florida Senate

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12-12-22

Meeting Date

4A

Bill Number or Topic

Fiscal Policy

Committee

Amendment Barcode (if applicable)

Name Chris Doolin

Phone 850-508-5492

Address 1018 Thomasville Rd 32308

Email cdoolin@doolinandassoc.com

Street

Tallah

Fl.

32308

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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12/12/2022

Meeting Date

Fiscal Policy

Committee

The Florida Senate

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4A

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Bob McKee

Phone

(850) 766-1952

Address

100 N Monroe

Email

bmckee@fl-counties.com

Street

Tallahassee

State

FL

Zip

32301

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Florida Association of Counties

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4A

Bill Number or Topic

12/12/22

Meeting Date

Fiscal Policy

Committee

Amendment Barcode (if applicable)

Name PEPPER UCHINO

Phone 850 727-9040

Address P.O. Box 13146
Street

Email pepper@fsbpa.com

Tallahassee
City

FL
State

32317
Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

FSBPA

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: SB 6-A

INTRODUCER: Senator DiCeglie

SUBJECT: Toll Relief

DATE: December 12, 2022 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Price | Yeatman | FP | Favorable |
| 2. | _____ | _____ | _____ | _____ |
| 3. | _____ | _____ | _____ | _____ |

I. Summary:

SB 6-A directs the Florida Turnpike Enterprise (FTE) to establish a toll relief program, effective from January 1, 2023, through December 31, 2023, for all Florida toll facilities that use a Florida-issued transponder or are interoperable with the Florida Department of Transportation’s (FDOT’s) prepaid electronic transponder toll system (SunPass). The bill defines terms and provides that an account that records 35 or more transactions per eligible transponder per calendar month is eligible for an account credit equal to 50 percent of the amount paid for the qualifying transactions.

The bill appropriates for the 2022-2023 fiscal year the nonrecurring sum of \$500 million from the General Revenue Fund to the State Transportation Trust Fund for use by the FDOT to reimburse the FDOT, the FTE, and other Florida toll facility entities for account credits issued. The bill prohibits the use of such funds for administration, contracted services, or expenses. The bill requires the FDOT to provide reimbursements to support compliance with bond covenants made with bondholders.

The bill requires the FDOT to submit quarterly reports to the Executive Office of the Governor and the chairs of the legislative appropriations committees documenting reimbursements to the FDOT, the FTE, and other Florida toll facilities and toll facility entities for the credits, with specified supporting documentation. The FDOT must reconcile all disbursements and transfers for reimbursement by the end of the month following each quarter, transfer all interest earnings from the appropriated funds to the General Revenue Fund, and provide a reconciliation report.

Any unexpended balance of funds appropriated by the bill to the FDOT for toll relief as of June 30, 2023, reverts and is appropriated for the 2023-2024 Fiscal Year to the FDOT for the same purpose. Any unexpended balance of funds as of February 29, 2024, immediately reverts to the General Revenue Fund. See the “Fiscal Impact Statement” below for additional information.

The act takes effect upon becoming law.

II. Present Situation:

Florida Toll Facilities

Florida's toll facilities (roads, bridges, and managed lanes) are constructed, operated, and maintained through toll revenues collected from customers. Every vehicle pays a toll that is generally based on the distance of the trip and the number of axles on the vehicle. Florida's toll facilities are owned and operated by a variety of entities including the FDOT, the FTE, expressway authorities, local governments, and private entities.

State Toll Facilities

According to the Florida Transportation Commission's (FTC's) *Transportation Authority Monitoring and Oversight Fiscal Year 2021 Report*,¹ FDOT-owned toll facilities include Alligator Alley, Pinellas Byway System, Sunshine Skyway Bridge, 75 Express, Palmetto Express, 95 Express, 295 Express, 595 Express, We kiva Parkway, and Garcon Point Bridge.

FTE-owned facilities include Florida's Turnpike mainline, Sawgrass Expressway, portions of S.R. 417, S.R. 528, and S.R. 429 in Central Florida, Polk Parkway, Veterans Expressway, Suncoast Parkway (and Extension), I-4 Connector, and First Coast Expressway.²

The FTC's report indicates that the FTE is responsible for management of all of the above facilities,³ and SunPass, Florida's electronic prepaid toll program (more fully described below), may be used to pay tolls incurred by customers using these facilities.⁴

Expressway and Bridge Authority Toll Facilities

Various expressway and bridge authorities in Florida also own and operate toll facilities. For example:

- The Central Florida Expressway Authority (CFX) owns and operates a number of toll facilities on portions of various state roads (S.R.) in Central Florida: East-West Expressway (S.R. 408), Beachline Expressway (S.R. 528), Central Florida GreeneWay (S.R. 417), Western Beltway (S.R. 429), John Land Apopka Expressway (S.R. 414), S.R. 451, and S.R. 453.⁵
- The Miami-Dade County Expressway Authority (MDX) facilities include the Airport Expressway (S.R. 112), Dolphin Expressway (S.R. 836), Don Shula Expressway (S.R. 874), Snapper Creek Expressway (S.R. 878), and Gratigny Parkway (S.R. 924).⁶
- The Mid-Bay Bridge Authority owns the Mid-Bay Bridge (S.R. 293), the Walter Francis Spence Parkway, Danny Wuerffel Way, and Walter Francis Spence Parkway.⁷ The FTE

¹ (On file in the Senate Transportation Committee, at p. 3.)

² *Id.* at p. 23.

³ *Id.*

⁴ According to the report, the FDOT also operates the Garcon Point Bridge, the Mid-Bay Bridge, and the Walter Francis Spence Parkway. SunPass may be used to pay tolls incurred on these facilities, as well. *Id.*, select "Department-operated Facilities."

⁵ *Supra* note 1.

⁶ See MDX, *About Miami-Dade Expressway Authority*, available at [About | MDX \(mdxway.com\)](https://www.mdxway.com) (last visited December 8, 2022).

⁷ *Supra* note 1 at p. 31.

provides toll operations on these facilities, and the FDOT's District Three provides maintenance functions.⁸

SunPass is also accepted on these facilities.

Local Government and Private Entity Toll Facilities

Toll facilities are also owned by local governments or locally-created authorities. For example, the Monroe County Card Sound Toll Authority is primarily responsible for operating the Card Sound Bridge. The FDOT provides maintenance for the toll booth and right-of-way along Card Sound Road.⁹ At least one toll facility is privately owned, the Orchard Pond Parkway.¹⁰ SunPass may be used on these facilities, as well.

SunPass

Florida's electronic prepaid toll program, SunPass, is the FDOT's preferred method of payment for tolls.¹¹ Customers may purchase a transponder at a variety of locations,¹² activate it for use, and install it in the customer's vehicle. When the vehicle encounters a toll collection point, the SunPass collection system electronically recognizes the transponder and automatically deducts the given toll amount from the customer's pre-paid account. Customers may pre-pay and replenish their SunPass accounts using credit or debit cards or cash. SunPass can be used on various toll roads, bridges, and managed lanes.¹³

According to the FTE,¹⁴ SunPass customers always pay the lowest toll amount in Florida, saving an average of 25 percent compared to paying cash¹⁵ or paying by the TOLL-BY-PLATE system, which bills a customer for tolls incurred over a 30-day period and imposes an additional \$2.50 administrative charge.¹⁶

Toll Collection Interoperability

Interoperable toll collection allows drivers to establish a single toll account that allows for payments on a variety of tolled facilities, *regardless of the facility's ownership*. An interoperable system recognizes a customer at any given toll collection facility participating in the system, and

⁸ *Supra* note 1.

⁹ See Monroe County, *Card Sound Toll Authority*, available at [Card Sound Toll Authority | Monroe County, FL - Official Website \(monroecounty-fl.gov\)](https://www.monroecounty-fl.gov) (last visited December 8, 2022).

¹⁰ See [HOME | Orchard Pond Parkway](https://www.monroecounty-fl.gov) (last visited December 7, 2022).

¹¹ See Florida's Turnpike, *SUNPASS*, available at [SunPass – Florida's Turnpike \(floridasturnpike.com\)](https://www.floridasturnpike.com) (last visited December 5, 2022).

¹² Such as Publix, CVS Pharmacy, and Walgreens; Walk-in Centers; the SunPass Customer Service Center, or online at SunPass.com. The most commonly used transponders are the SunPass Mini (\$4.99 plus tax) and the SunPass PRO (\$14.95 plus tax). For further comparison of the two transponders, *see Id.*

¹³ For more information on "managed lanes," *see* FDOT, *Managed Lanes*, available at [Managed Lanes \(fdot.gov\)](https://www.fdot.gov) (last visited December 6, 2022).

¹⁴ The FTE is part of the FDOT, headed by an executive director who serves at the pleasure of the FDOT secretary. *See s. 20.23(4)(a)-(e)*, F.S.

¹⁵ See SunPass, FAQs, *Are there SunPass toll discount plans?*, available at [SunPass : Frequently Asked Questions](https://www.floridasturnpike.com) (last visited December 5, 2022).

¹⁶ See Florida's Turnpike, *TOLL-BY-PLATE*, available at [TOLL-BY-PLATE – Florida's Turnpike \(floridasturnpike.com\)](https://www.floridasturnpike.com) (last visited December 5, 2022).

each toll facility owner or operator receives proper payment for use of the owner's or operator's facility.

Current Florida law requires all new limited access facilities and existing transportation facilities on which new or replacement electronic toll collection systems are installed to be interoperable with the FDOT's electronic toll-collection system.¹⁷ The FDOT is also authorized to require the use of a transponder interoperable with the FDOT's electronic toll collection system for use of high-occupancy toll lanes or express lanes.¹⁸ The FTE is authorized to require the use of an electronic transponder interoperable with the FDOT's electronic toll collection system for the use of express lanes on the turnpike system.¹⁹

Participating SunPass agencies, other than the FDOT and the FTE, include the Miami-Dade County Expressway Authority, the Tampa-Hillsborough Expressway Authority, the Central Florida Expressway Authority, the E-ZPass Group (an association of toll entities in 19 states),²⁰ the North Carolina QuickPass, and the Georgia Peach Pass. Additional participants include other tolled facilities in Florida: Lee County (LeeWay), the Mid-Bay Bridge Authority (the Mid-Bay Bridge), Escambia County (Bob Sikes Bridge), Bay Harbor Islands (Broad Causeway), Miami-Dade County (the Venetian Causeway and the Rickenbacker Causeway), and the Card Sound Toll Authority (Monroe County, Card Sound Bridge).²¹

Existing Toll Discounts and Rebates

Current law authorizes the FDOT to incur expenses for paid advertising, marketing, and promotion of toll facilities and electronic toll collection products and services. Such promotions may include discounts and free products.²²

As authorized, SunPass offers a number of discount and rebate plans for frequent users and commuters on certain toll facilities on which SunPass may be used. These plans may have requirements for residency, vehicle occupancy, number-of-trips, or time-of-day restrictions. For example, SunPass customers who use the Sunshine Skyway receive a 10 percent rebate for three-plus axle vehicles when 40 or more paid transactions per transponder occur for a given calendar

¹⁷ Section 338.01(7), F.S. Note that express lanes in Florida are tolled lanes located within a non-tolled facility, such as I-75.

¹⁸ Section 338.166(4), F.S.

¹⁹ Section 338.2216(1)(d), F.S.

²⁰ The group is a partnership between the FTE and the E-ZPass network. The SunPass PRO can be used everywhere E-ZPass is accepted, and E-ZPass can be used to pay tolls incurred on Florida's Turnpike System and on toll facilities owned and operated by the FDOT. The 19 states include Florida, Georgia, North Carolina, Virginia, West Virginia, Kentucky, Pennsylvania, Ohio, Indiana, Illinois, Minnesota, New York, Maine, New Hampshire, Massachusetts, Rhode Island, New Jersey, Delaware, and Maryland. See Florida's Turnpike, *Interoperability in 19 States*, available at [Interoperability Map 08-21 \(floridasturnpike.com\)](https://www.floridasturnpike.com/interoperability-map) (last visited December 5, 2022).

²¹ SunPass, *Tolls in Florida, Participating Agencies*, available at [SunPass : Tolls](https://www.sunpass.com/tolls) (last visited December 5, 2022). According to the SunPass website, in addition to SunPass transponders, the following transponders may be used in Florida: E-Pass (the Central Florida Expressway Authority), E-ZPass (the 19-state association), the LeeWay, the North Carolina QuickPass, and the Georgia Peach Pass. *Id.*, *Florida's Toll Roads and Bridges*. Additionally, according to the Central Florida Expressway Authority website, the "Uni," (a product of the Central Florida Expressway Authority) is accepted everywhere E-Pass and E-Z Pass are accepted including 19 states from Florida to Maine and west to Minnesota." See cfxway, *Uni by E-pass*, available at [Uni - One Toll Pass. 19 States. \(cfxway.com\)](https://www.cfxway.com/uni-one-toll-pass-19-states) (last visited December 6, 2022).

²² Section 338.161(1), F.S.

month. SunPass customers using the Pinellas Bayway may purchase an annual resident pass for \$15 and an annual commuter pass for \$50.²³

SunPass Savings Program

On August 25, 2022, Governor DeSantis announced a new toll discount program called “SunPass Savings.”²⁴ The program is for customers who use Florida’s Turnpike System and FDOT-owned toll facilities. The program began on September 1 and is currently scheduled to run for six months. Customers with two-axle vehicles and at least 40 paid transactions in a month receive a 20 percent credit to their SunPass account, and customers with 80 or more paid transactions receive a 25 percent credit each month. Credits are automatically posted to accounts on the 10th of the following month. Customers must have a SunPass account or Florida interoperable account²⁵ in good standing.²⁶ If a customer has multiple transponders on his or her account, each transponder meeting the paid transactions requirement will render the customer’s account eligible for a SunPass Savings credit.²⁷

2023 Legislative Proposal for a Toll Relief Program

On September 7, 2022, Governor DeSantis announced a 2023 legislative proposal “to provide discounts on tolls for frequent commuters using any toll roads across the state.”²⁸ The proposal is for a one-year program, beginning on July 1, 2023, and running through June 30, 2024. Customers with at least 40 paid transactions per month would receive a 50 percent credit to their accounts.

III. Effect of Proposed Changes:

Section 1 of the bill directs the FTE to establish a toll relief program, effective from January 1, 2023, through December 31, 2023, for all Florida toll facilities or Florida toll facility entities that use a Florida-issued transponder²⁹ or are interoperable with the FDOT’s SunPass system. The bill deems a “qualifying account” that records 35 or more “qualifying transactions” per transponder per calendar month to be eligible for an account credit equivalent to 50 percent of the amount paid in that calendar month for the qualifying transactions per transponder. A SunPass or other transponder issued by a Florida toll agency must be linked to the qualifying account.

A “qualifying account” is defined to mean a private prepaid SunPass account or another Florida-based electronic prepaid toll program account in good standing. A “qualifying transaction” means a paid transponder-based toll transaction incurred by a two-axle vehicle for travel on a

²³ For a listing, by county, of current SunPass discounts and rebates, see SunPass, *Tolls in Florida, SunPass Discounts and Rebates*, available at [SunPass : Tolls](#) (last visited December 6, 2022).

²⁴ To view the press release and related press conference, see [Governor Ron DeSantis Announces SunPass Savings \(flgov.com\)](#) (last visited December 6, 2022).

²⁵ According to the SunPass Savings website, “Florida interoperable transponders are E-Pass, Uni, and Leeway.” SunPass, *SunPass Savings*, available at [SunPass Savings Alert.pdf](#) (last visited December 6, 2022).

²⁶ *Id.*, for a listing of Florida toll facilities included in the SunPass Savings program.

²⁷ *Id.*

²⁸ To view the press release, see [Governor Ron DeSantis Announces 2023 Legislative Proposal for Toll Relief at All Florida Toll Facilities \(flgov.com\)](#) (last visited December 6, 2022.)

²⁹ Florida residency is not required for participation in the SunPass system.

Florida toll facility using a Florida-issued transponder linked to a qualifying account. Account credits must be posted to a qualifying account the month after the credit is earned.

The bill appropriates the nonrecurring sum of \$500 million for the 2022-2023 fiscal year from the General Revenue Fund to the State Transportation Trust Fund, to be used by the FDOT to reimburse the FDOT, the FTE, and other Florida toll facilities or Florida toll facility entities for account credits issued.

The FDOT is directed to provide reimbursements to support compliance with covenants made with the holders of bonds of the FDOT, the FTE, or other Florida toll facility entities which are in the trust indentures or resolutions adopted in connection with issuance of such bonds. The bill prohibits the FDOT from using the appropriated funds for administration, contracted services, or expenses of the FDOT, the FTE, a Florida toll facility or Florida toll facility entity, or any contractor or vendor thereof.

The bill authorizes the FDOT, from the appropriated funds, to reimburse each Florida toll facility or Florida toll facility entity, as applicable, for the amount of actual account credits issued, based on auditable reports prepared by the Florida toll facilities or Florida toll facility entities which aggregate the account credits issued. The reports must include any documentation required by the FDOT to provide the FDOT with sufficient information for reimbursement of account credits issued.

The bill provides that the unexpended balance of funds appropriated by the bill to the FDOT for toll relief as of June 30, 2023, reverts and is appropriated for the 2023-2024 fiscal year to the FDOT for the same purpose. Any unexpended balance as of February 29, 2024, immediately reverts to the General Revenue Fund.

The bill requires the FDOT to submit quarterly reports to the Executive Office of the Governor and the chairs of the legislative appropriations committees documenting reimbursements to the FDOT, the FTE, and other Florida toll facilities and Florida toll facility entities. The FDOT's report must include supporting documentation with auditable data to support the account credits issued. The FDOT must reconcile all disbursements and transfers for reimbursement by the end of the month following each quarter, transfer all interest earnings from the appropriated funds to the General Revenue Fund, and provide a reconciliation report.

This section expires on February 29, 2024.

Section 2 provides the act takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Toll facility users who are eligible for account credits are expected to realize a positive fiscal impact resulting from the prepaid toll account credits. While the exact amount of the positive impact (both total and individually) is dependent on the number of eventual eligible customers and the number of paid transactions per month per eligible customer. Thus, the positive fiscal impact to the pool of eligible toll customers is capped at the amount appropriated for the program in the bill, \$500 million.

C. Government Sector Impact:

The bill appropriates \$500 million from the General Revenue Fund to the State Transportation Trust Fund at the FDOT to provide reimbursement to the toll agencies for the issued toll account credits. Any interest earned on the funds appropriated to the State Transportation Trust Fund must be transferred back to the General Revenue Fund quarterly.

Due to the bill's authorized reimbursement for provided toll account credits, the FDOT and the FTE are not expected to experience any fiscal impact, as is the case for other participating Florida toll agencies.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an undesignated section of law.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator DiCeglie

18-00003F-22A

20226A__

1 A bill to be entitled
 2 An act relating to toll relief; requiring the Florida
 3 Turnpike Enterprise to establish a toll relief program
 4 for a specified timeframe; defining terms; specifying
 5 the requirements for eligibility for account credits
 6 under the program; appropriating funds for the
 7 Department of Transportation to reimburse the
 8 department, the Florida Turnpike Enterprise, and other
 9 Florida toll facilities and Florida toll facility
 10 entities for account credits issued under the program;
 11 requiring the department to ensure compliance with
 12 certain covenants; prohibiting the department from
 13 using appropriated funds for specified purposes;
 14 authorizing the department to reimburse each Florida
 15 toll facility or Florida toll facility entity for the
 16 actual account credits issued, based on specified
 17 reports; requiring each Florida toll facility or
 18 Florida toll facility entity to submit certain
 19 documentation for reimbursement; providing for the
 20 reversion of unexpended funds; requiring the
 21 department to submit quarterly reports documenting
 22 specified reimbursements to the Governor and specified
 23 legislative entities; specifying the documentation to
 24 be submitted with the department's report; requiring
 25 the department to reconcile disbursements and
 26 transfers, to transfer interest earned to the General
 27 Revenue Fund, and to provide a quarterly report
 28 regarding reconciliation to the Governor and specified
 29 legislative entities; providing for expiration;

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

18-00003F-22A

20226A__

30 providing an effective date.
 31
 32 Be It Enacted by the Legislature of the State of Florida:
 33
 34 Section 1. (1) The Florida Turnpike Enterprise shall
 35 establish a toll relief program effective January 1, 2023,
 36 through December 31, 2023, for all Florida toll facilities or
 37 Florida toll facility entities that use a Florida-issued
 38 transponder or are interoperable with the Department of
 39 Transportation's prepaid electronic transponder toll system.
 40 (a) As used in this subsection, the term:
 41 1. "Qualifying account" means a private prepaid SunPass
 42 account or another Florida-based electronic prepaid toll program
 43 account in good standing.
 44 2. "Qualifying transaction" means a paid transponder-based
 45 toll transaction incurred by a two-axle vehicle for travel on a
 46 Florida toll facility using a Florida issued transponder linked
 47 to a qualifying account.
 48 (b) A qualifying account that records 35 or more qualifying
 49 transactions per transponder per calendar month is eligible for
 50 an account credit equal to 50 percent of the amount paid in that
 51 calendar month for the qualifying transactions per transponder.
 52 The account credit shall be posted to the qualifying account the
 53 month after the credit is earned.
 54 (c) A SunPass or other transponder issued by a Florida toll
 55 entity must be linked to a qualifying account.
 56 (2) In order to facilitate this act, for the 2022-2023
 57 fiscal year, the nonrecurring sum of \$500 million from the
 58 General Revenue Fund is appropriated to the State Transportation

Page 2 of 4

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

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59 Trust Fund for the Department of Transportation to reimburse the
 60 department, the Florida Turnpike Enterprise, and other Florida
 61 toll facilities or Florida toll facility entities for account
 62 credits issued for promotional purposes as authorized in s.
 63 338.161(1), Florida Statutes, and under the toll relief program
 64 created by this act. The department shall provide reimbursements
 65 to support compliance with covenants made with the bondholders
 66 of the department, the Florida Turnpike Enterprise, or other
 67 Florida toll facility entities which are in the trust indentures
 68 or resolutions adopted in connection with the issuance of such
 69 bonds. The department may not use appropriated funds for
 70 administration, contracted services, or expenses of the
 71 department, the Florida Turnpike Enterprise, a Florida toll
 72 facility or Florida toll facility entity, or any contractor or
 73 vendor thereof.

74 (3) The department may reimburse each Florida toll facility
 75 or Florida toll facility entities, as applicable, from
 76 appropriated funds for the amount of actual account credits
 77 issued, based upon auditable reports prepared by the Florida
 78 toll facility or Florida toll facility entities which aggregate
 79 the account credits issued. The reports must include any
 80 documentation required by the department to provide the
 81 department with sufficient information for reimbursement of
 82 account credits issued.

83 (4) The unexpended balance of funds appropriated to the
 84 department for toll relief as of June 30, 2023, shall revert and
 85 is appropriated to the department for the same purpose for the
 86 2023-2024 fiscal year. Any unexpended balance of funds as of
 87 February 29, 2024, shall immediately revert to the General

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88 Revenue Fund.
 89 (5) The department shall submit quarterly reports to the
 90 Executive Office of the Governor and the chairs of the
 91 legislative appropriations committees documenting reimbursements
 92 issued under this program to the department, the Florida
 93 Turnpike Enterprise, and other Florida toll facilities and
 94 Florida toll facility entities. The department's report must
 95 include supporting documentation with auditable data to support
 96 the account credits issued.

97 (6) By the end of the month following each quarter, the
 98 department shall reconcile all disbursements and transfers for
 99 reimbursement, transfer to the General Revenue Fund all interest
 100 earnings from the appropriated funds, and provide a report of
 101 reconciliation to the Executive Office of the Governor and the
 102 chairs of the legislative appropriations committees.

103 (7) This act expires February 29, 2024.

104 Section 2. This act shall take effect upon becoming a law.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

12/12/2022

Meeting Date

Fiscal Policy

Committee

SB 6-A

Bill Number or Topic

Amendment Barcode (if applicable)

Name Ivonne Fernandez

Phone 954-850-7262

Address 215 Monroe Suite 603

Email i.fernandez@earp.org

Tallahassee FL 32301

Speaking: [] For [] Against [] Information OR Waive Speaking: [x] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[] I am a registered lobbyist, representing:

[] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

CourtSmart Tag Report

Room: KB 412

Case No.: -

Type:

Caption: Senate Fiscal Policy Committee

Judge:

Started: 12/12/2022 3:01:12 PM

Ends: 12/12/2022 6:06:01 PM

Length: 03:04:50

3:01:12 PM Chair Hutson calls meeting to order
3:01:16 PM CAA calls roll and announces quorum
3:02:05 PM Pledge of Allegiance led by Senator Collins
3:02:32 PM Chair Hutson with opening comments
3:02:49 PM Tab 3 SB 6A Toll Relief - by Senator DiCeglie
3:02:57 PM Senator DiCeglie explains the bill
3:04:32 PM Chair Hutson with questions
3:04:36 PM Senator Berman with questions
3:04:51 PM Senator DiCeglie responds
3:04:59 PM Senator Berman with follow-up
3:05:05 PM Senator DiCeglie responds
3:05:57 PM Appearance Forms
3:06:08 PM Ivonne Fernandez with AARP waives in support
3:06:18 PM Senator Berman in debate
3:06:59 PM Senator DiCeglie closes on the bill
3:07:15 PM CAA calls the roll on SB 6A
3:07:27 PM Bill is reported favorably
3:08:06 PM Chair turned over to Senator Stewart
3:08:16 PM Tab 2 SB 4A Disaster Relief by Senator Hutson
3:08:21 PM Chair Hutson explains the bill
3:10:34 PM Senator Berman with question
3:10:53 PM Chair Hutson responds
3:11:37 PM Senator Berman with follow-up
3:11:42 PM Chair Hutson responds
3:13:33 PM Appearance Forms
3:13:44 PM Zayne Smith, AARP waives in support
3:13:50 PM Matt Caldwell, Lee County Property Appraiser, speaks in support
3:14:39 PM Chris Doolan speaks for/information
3:17:38 PM Bob McKee, Florida Association of Counties speaks in support
3:17:59 PM Pepper Uchino, FSBPA, speaks for information
3:20:46 PM Senator Wright in debate
3:21:21 PM Senator Torres in debate
3:22:20 PM Chair Hutson closes on the bill
3:22:32 PM Roll call on SB 4-A
3:23:05 PM Bill is reported favorably - chair returned to Chair Hutson
3:23:45 PM Tab 1 SB 2-A Property Insurance by Senator Boyd
3:24:33 PM Senator Boyd explains the bill
3:41:55 PM Senator Jones with questions
3:42:14 PM Senator Boyd responds
3:43:19 PM Senator Jones with follow-up
3:44:19 PM Senator Boyd responds
3:46:43 PM Senator Jones with question
3:47:44 PM Senator Boyd responds
3:48:19 PM Senator Jones with question
3:48:27 PM Senator Boyd responds
3:50:35 PM Senator Jones with comments
3:51:43 PM Senator Osgood with question
3:52:21 PM Senator Boyd responds
3:52:44 PM Senator Osgood with follow-up
3:53:11 PM Senator Boyd responds
3:55:05 PM Senator Osgood with follow-up
3:55:13 PM Senator Boyd responds

3:56:08 PM Senator Osgood with follow-up
3:56:16 PM Senator Boyd responds
3:57:44 PM Senator Osgood with question
3:57:52 PM Senator Boyd responds
3:58:41 PM Senator Osgood with question
3:59:30 PM Senator Boyd responds
4:00:00 PM Senator Osgood with comments
4:01:43 PM Senator Torres with question
4:02:57 PM Senator Boyd responds
4:03:19 PM Senator Torres with question
4:03:23 PM Senator Boyd responds
4:03:28 PM Senator Torres with question
4:03:36 PM Senator Boyd responds
4:04:07 PM Senator Torres with question
4:05:06 PM Senator Boyd responds
4:05:10 PM Senator Torres with question
4:05:31 PM Senator Boyd responds
4:06:09 PM Senator Torres with question
4:06:15 PM Senator Boyd responds
4:06:37 PM Senator Berman with question
4:06:49 PM Senator Boyd responds
4:07:17 PM Senator Berman with follow-up
4:08:01 PM Senator Boyd responds
4:08:06 PM Senator Berman with question
4:08:26 PM Senator Boyd responds
4:08:35 PM Senator Berman with question
4:08:40 PM Senator Boyd responds
4:09:30 PM Senator Berman with question
4:10:31 PM Senator Boyd responds
4:10:47 PM Senator Berman with question
4:11:10 PM Senator Boyd responds
4:11:18 PM Senator Berman with question
4:11:25 PM Senator Boyd responds
4:11:56 PM Senator Berman with question
4:12:02 PM Senator Boyd responds
4:13:45 PM Senator Berman with question
4:13:53 PM Senator Boyd responds
4:14:15 PM Senator Berman with question
4:14:41 PM Senator Boyd responds
4:14:52 PM Senator Berman with question
4:15:06 PM Senator Boyd responds
4:15:18 PM Senator repeats question
4:15:23 PM Senator Boyd responds
4:16:18 PM Senator Thompson with question
4:16:28 PM Senator Boyd responds
4:17:00 PM Senator Thompson with question
4:17:07 PM Senator Boyd responds
4:17:20 PM Senator Thompson with question
4:17:51 PM Senator Boyd responds
4:18:10 PM Senator Thompson with question
4:19:10 PM Senator Boyd responds
4:19:33 PM Senator Thompson with question
4:20:26 PM Senator Boyd responds
4:20:56 PM Senator Thompson with question
4:21:42 PM Senator Boyd responds
4:22:48 PM Senator Thompson with question
4:22:54 PM Senator Boyd responds
4:24:27 PM Senator Jones with question
4:24:32 PM Senator Boyd responds
4:26:58 PM Senator Osgood with question
4:27:08 PM Senator Boyd responds
4:28:26 PM Amendment Barcode 532468 by Senator Berman

4:28:45 PM Senator Berman explains the amendment
4:29:40 PM Appearance Forms
4:30:02 PM David Murray speaks for the amendment
4:31:56 PM Richie Kidwell speaks in support
4:34:17 PM Senator Boyd on the amendment
4:34:30 PM Senator Berman closes on amendment
4:35:08 PM Amendment Fails
4:35:14 PM Amendment Barcode 785432 by Senator Osgood
4:35:16 PM Senator Osgood explains the amendment
4:35:45 PM Appearance Forms
4:35:49 PM Ron Haynes speaks for the bill
4:36:46 PM Senator Boyd on the amendment
4:36:54 PM Senator Osgood closes on the amendment
4:37:29 PM Amendment is not adopted
4:37:37 PM Amendment Barcode 242906 by Senator Osgood
4:37:43 PM Senator Osgood explains the amendment
4:38:18 PM Appearance Forms
4:38:25 PM Ron Haynes waives in support
4:38:29 PM Senator Boyd on the amendment
4:38:36 PM Senator Osgood closes on the amendment
4:39:33 PM Amendment is not adopted
4:39:38 PM Back on the bill
4:39:45 PM Appearance Forms
4:40:00 PM David Altmaier, State Insurance Commissioner speaks for information
4:43:24 PM Senator Trumbull with question
4:43:40 PM Commissioner Altmaier responds
4:45:04 PM Senator Trumbull with follow-up
4:45:12 PM Commissioner Altmaier responds
4:46:17 PM Senator Trumbull with question
4:47:17 PM Commissioner Altmaier responds
4:47:55 PM Senator Trumbull with question
4:48:31 PM Commissioner Altmaier responds
4:48:35 PM Senator Trumbull with question
4:48:38 PM Commissioner Altmaier responds
4:49:53 PM Senator Trumbull with question
4:49:57 PM Commissioner Altmaier responds
4:50:54 PM Chair Hutson with comments
4:51:11 PM Senator Jones with question
4:51:41 PM Commissioner Altmaier responds
4:53:21 PM Senator Jones with question
4:53:39 PM Commissioner Altmaier responds
4:53:59 PM Senator Jones with question
4:54:24 PM Commissioner Altmaier responds
4:54:41 PM Senator Berman with question
4:54:51 PM Commissioner Altmaier responds
4:55:21 PM Senator Berman with question
4:56:09 PM Commissioner Altmaier responds
4:56:39 PM Senator Berman with question
4:56:46 PM Commissioner Altmaier responds
4:57:40 PM Senator Berman with question
4:58:02 PM Commissioner Altmaier responds
4:58:48 PM Senator Berman with question
4:58:53 PM Commissioner Altmaier responds
4:59:22 PM Senator Berman with question
4:59:32 PM Commissioner Altmaier responds
4:59:39 PM Senator Berman with question
4:59:42 PM Commissioner Altmaier responds
5:00:12 PM Senator Torres with question
5:00:23 PM Commissioner Altmaier responds
5:00:33 PM Senator Torres with follow-up
5:00:40 PM Commissioner Altmaier responds
5:01:22 PM Chair Hutson announces-pursuant to Senate Rule, meeting has been extended to 6:30p.m.

5:01:47 PM Appearance Forms
5:01:59 PM John Albaugh-citizen, speaks against the bill
5:07:36 PM Senator Torres with question
5:07:42 PM Mr. Albaugh responds
5:08:30 PM Senator Torres with question
5:08:34 PM Mr. Albaugh responds
5:08:46 PM Natalie Albaugh-citizen, speaks against the bill
5:11:40 PM Ryan Jones speaks in support of the bill
5:14:09 PM Caroline Melear speaks for the bill
5:17:27 PM Cristina Cambo speaking for the bill
5:19:24 PM Michael Carlson, Personal Insurance Federation of Florida, waives in support
5:19:25 PM Caitlin Murray, NAMIC waives in support
5:19:36 PM Eric DeCampos, National Insurance Crime Bureau, waives in support
5:19:42 PM Christine Ashburn, Citizens Property Insurance Corp, waives in support
5:19:45 PM William Arnold, American Integrity Insurance Company, waives in support
5:19:50 PM Ethan Perry, Florida Realtors waives in support
5:19:55 PM
5:19:55 PM Austin Stowers, CFO Jimmy Patronis, waives in support
5:19:59 PM Chad Kunde, Florida Chamber of Commerce, waives in support
5:20:05 PM George Feijoo, Florida Insurance Council waives in support
5:20:11 PM Richie Kidwell speaks against the bill
5:25:37 PM Adam Basford, Associated Industries of Florida, waives in support
5:25:45 PM Katelyn Ferry speaks in support
5:27:50 PM David Murray speaks against the bill
5:32:21 PM Aram Megerian, Florida Justice Reform Institute speaks for the bill
5:35:01 PM Ron Haynes speaks against
5:41:22 PM Dr. Rich Templin, Florida AFL-CIO, speaks against
5:46:40 PM Senator Jones in debate
5:50:48 PM Senator Berman in debate
5:53:04 PM Senator Garcia in debate
5:54:33 PM Senator Torres in debate
5:56:54 PM Senator Thompson in debate
6:01:15 PM Senator Stewart in debate
6:02:30 PM Senator Boyd closes on the bill
6:03:42 PM CAA calls the roll on SB 2-A
6:04:42 PM SB 2-A is reported favorably
6:05:35 PM Senator Stewart moves to adjourn
6:05:51 PM Meeting adjourned