

By Senator Hays

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1                   A bill to be entitled  
2           An act relating to the Citizens Property Insurance  
3           Corporation; amending s. 627.351, F.S.; revising  
4           legislative intent; providing that certain residential  
5           structures are not eligible for coverage by the  
6           corporation after a certain date; requiring policies  
7           issued by the corporation to include a provision that  
8           prohibits policyholders from engaging the services of  
9           a public adjuster; specifying the percentage amount of  
10          emergency assessments; revising provisions relating to  
11          policyholder surcharges; prohibiting the corporation  
12          from levying certain assessments with respect to a  
13          year's deficit until the corporation has first levied  
14          a specified surcharge; deleting obsolete provisions  
15          relating to the corporation's plan of operation;  
16          requiring the corporation to commission a consultant  
17          to prepare a report on outsourcing various functions  
18          and submit such report to the Financial Services  
19          Commission by a certain date; revising provisions  
20          relating to wind coverage; prohibiting the corporation  
21          from accepting applications for commercial  
22          nonresidential risks; requiring the policyholders to  
23          sign a statement acknowledging that they may be  
24          assessed surcharges to cover corporate deficits;  
25          providing that policies do not include coverage for  
26          screen enclosures and limiting coverage for damage  
27          from sinkholes after a certain date; requiring members  
28          of the board of governors to abstain from voting on  
29          issues on which they have a personal interest;

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30 requiring such members to disclose the nature of their  
31 interest as a public record; providing that the  
32 corporation operates as a residual market mechanism;  
33 revising provisions relating to corporation rates;  
34 clarifying that the corporation is immune from certain  
35 liabilities; deleting a requirement for an annual  
36 report to the Legislature on losses attributable to  
37 wind-only coverages; requiring owners of properties in  
38 Special Flood Hazard Areas to maintain a separate  
39 flood insurance policy after a certain date; providing  
40 exceptions; amending ss. 627.3511 and 627.712, F.S.;  
41 conforming cross-references; providing an effective  
42 date.

43  
44 Be It Enacted by the Legislature of the State of Florida:

45  
46 Section 1. Paragraphs (a), (b), (c), (d), (n), (o), (s),  
47 (w), (y), (aa), and (ee) of subsection (6) of section 627.351,  
48 Florida Statutes, are amended to read:

49 627.351 Insurance risk apportionment plans.—

50 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

51 (a) ~~1. It is~~ The public purpose of this subsection is to  
52 ensure that there is ~~the existence of~~ an orderly market for  
53 property insurance for residents ~~Floridians~~ and ~~Florida~~  
54 businesses of this state.

55 1. The Legislature finds that actual and threatened  
56 catastrophic losses to property from hurricanes in this state  
57 have caused insurers to be unwilling or unable to provide  
58 property insurance coverage to the extent sought and needed. The

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59 Legislature declares that it is in the public interest and  
60 serves a public purpose that property in this state be  
61 adequately insured in order to facilitate the remediation,  
62 reconstruction, and replacement of damaged or destroyed  
63 property. Such efforts are necessary in order to avoid or reduce  
64 negative effects to the public health, safety, and welfare; the  
65 economy of the state; and the revenues of state and local  
66 governments. It is necessary, therefore, to provide property  
67 insurance to applicants who are entitled to procure insurance  
68 through the voluntary market but who, in good faith, are unable  
69 to do so. ~~The Legislature finds that private insurers are~~  
70 ~~unwilling or unable to provide affordable property insurance~~  
71 ~~coverage in this state to the extent sought and needed. The~~  
72 ~~absence of affordable property insurance threatens the public~~  
73 ~~health, safety, and welfare and likewise threatens the economic~~  
74 ~~health of the state. The state therefore has a compelling public~~  
75 ~~interest and a public purpose to assist in assuring that~~  
76 ~~property in the state is insured and that it is insured at~~  
77 ~~affordable rates so as to facilitate the remediation,~~  
78 ~~reconstruction, and replacement of damaged or destroyed property~~  
79 ~~in order to reduce or avoid the negative effects otherwise~~  
80 ~~resulting to the public health, safety, and welfare, to the~~  
81 ~~economy of the state, and to the revenues of the state and local~~  
82 ~~governments which are needed to provide for the public welfare.~~  
83 ~~It is necessary, therefore, to provide affordable property~~  
84 ~~insurance to applicants who are in good faith entitled to~~  
85 ~~procure insurance through the voluntary market but are unable to~~  
86 ~~do so.~~ The Legislature intends, therefore, by this subsection  
87 that affordable property insurance be provided and that it

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88 continue to be provided, as long as necessary, through Citizens  
89 Property Insurance Corporation, a government entity that is an  
90 integral part of the state, and that is not a private insurance  
91 company. ~~To that end, Citizens Property Insurance Corporation~~  
92 ~~shall strive to increase the availability of affordable property~~  
93 ~~insurance in this state, while achieving efficiencies and~~  
94 ~~economies, and while providing service to policyholders,~~  
95 ~~applicants, and agents which is no less than the quality~~  
96 ~~generally provided in the voluntary market, for the achievement~~  
97 ~~of the foregoing public purposes. Because it is essential for~~  
98 ~~this government entity to have the maximum financial resources~~  
99 ~~to pay claims following a catastrophic hurricane, it is the~~  
100 ~~intent of the Legislature that Citizens Property Insurance~~  
101 ~~Corporation continue to be an integral part of the state and~~  
102 ~~that the income of the corporation be exempt from federal income~~  
103 ~~taxation and that interest on the debt obligations issued by the~~  
104 ~~corporation be exempt from federal income taxation.~~

105 a. It is also the intent of the Legislature that  
106 policyholders, applicants, and agents of the corporation receive  
107 service and treatment of the highest possible level and never  
108 less than that generally provided in the voluntary market. The  
109 corporation must be held to service standards no less than those  
110 applied to insurers in the voluntary market by the office with  
111 respect to responsiveness, timeliness, customer courtesy, and  
112 overall dealings with policyholders, applicants, or agents of  
113 the corporation. It is also the intent of the Legislature that  
114 the corporation operate efficiently and economically.

115 b. Because it is essential that the corporation have the  
116 maximum financial resources necessary to pay claims following a

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117 catastrophic hurricane, the Legislature also intends that the  
118 income of the corporation and interest on the debt obligations  
119 issued by the corporation be exempt from federal income  
120 taxation.

121 2. The Residential Property and Casualty Joint Underwriting  
122 Association originally created by this statute shall be known,  
123 ~~as of July 1, 2002,~~ as the Citizens Property Insurance  
124 Corporation. The corporation shall provide insurance for  
125 residential and commercial property, for applicants who are ~~in~~  
126 ~~good faith~~ entitled, but, in good faith, are unable, to procure  
127 insurance through the voluntary market. ~~The corporation shall~~  
128 ~~operate pursuant to a plan of operation approved by order of the~~  
129 ~~Financial Services Commission. The plan is subject to continuous~~  
130 ~~review by the commission. The commission may, by order, withdraw~~  
131 ~~approval of all or part of a plan if the commission determines~~  
132 ~~that conditions have changed since approval was granted and that~~  
133 ~~the purposes of the plan require changes in the plan. The~~  
134 ~~corporation shall continue to operate pursuant to the plan of~~  
135 ~~operation approved by the Office of Insurance Regulation until~~  
136 ~~October 1, 2006.~~ For the purposes of this subsection,  
137 residential coverage includes both personal lines residential  
138 coverage, which consists of the type of coverage provided by  
139 homeowner's, mobile home owner's, dwelling, tenant's,  
140 condominium unit owner's, and similar policies;; and commercial  
141 lines residential coverage, which consists of the type of  
142 coverage provided by condominium association, apartment  
143 building, and similar policies.

144 3. With respect to coverage for personal lines residential  
145 structures:

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146        a. Effective January 1, 2009, a ~~personal lines residential~~  
147 structure that has a dwelling replacement cost of \$2 million or  
148 more, or a single condominium unit that has a combined dwelling  
149 and contents ~~content~~ replacement cost of \$2 million or more is  
150 not eligible for coverage by the corporation. Such dwellings  
151 insured by the corporation on December 31, 2008, may continue to  
152 be covered by the corporation until the end of the policy term.  
153 However, such dwellings ~~that are insured by the corporation and~~  
154 ~~become ineligible for coverage due to the provisions of this~~  
155 ~~subparagraph~~ may reapply and obtain coverage if the property  
156 owner provides the corporation with a sworn affidavit from one  
157 or more insurance agents, on a form provided by the corporation,  
158 stating that the agents have made their best efforts to obtain  
159 coverage and that the property has been rejected for coverage by  
160 at least one authorized insurer and at least three surplus lines  
161 insurers. If such conditions are met, the dwelling may be  
162 insured by the corporation for up to 3 years, after which time  
163 the dwelling is ineligible for coverage. ~~The office shall~~  
164 ~~approve the method used by the corporation for valuing the~~  
165 ~~dwelling replacement cost for the purposes of this subparagraph.~~  
166 ~~If a policyholder is insured by the corporation prior to being~~  
167 ~~determined to be ineligible pursuant to this subparagraph and~~  
168 ~~such policyholder files a lawsuit challenging the determination,~~  
169 ~~the policyholder may remain insured by the corporation until the~~  
170 ~~conclusion of the litigation.~~

171        b. Effective January 1, 2012, a structure that has a  
172 dwelling replacement cost of \$1 million or more, or a single  
173 condominium unit that has a combined dwelling and contents  
174 replacement cost of \$1 million or more is not eligible for

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175 coverage by the corporation. Such dwellings insured by the  
176 corporation on December 31, 2011, may continue to be covered by  
177 the corporation only until the end of the policy term.

178 c. Effective January 1, 2014, a structure insured in the  
179 personal lines account of the corporation that has a dwelling  
180 replacement cost of \$750,000 or more, or a single condominium  
181 unit that has a combined dwelling and contents replacement cost  
182 of \$750,000 or more is not eligible for coverage by the  
183 corporation. Such dwellings insured by the corporation on  
184 December 31, 2013, may continue to be covered by the corporation  
185 until the end of the policy term.

186 d. Effective January 1, 2016, a structure insured in the  
187 personal lines account of the corporation that has a dwelling  
188 replacement cost of \$500,000 or more, or a single condominium  
189 unit that has a combined dwelling and contents replacement cost  
190 of \$500,000 or more is not eligible for coverage by the  
191 corporation. Such dwellings insured by the corporation on  
192 December 31, 2015, may continue to be covered by the corporation  
193 until the end of the policy term.

194 ~~4. It is the intent of the Legislature that policyholders,~~  
195 ~~applicants, and agents of the corporation receive service and~~  
196 ~~treatment of the highest possible level but never less than that~~  
197 ~~generally provided in the voluntary market. It also is intended~~  
198 ~~that the corporation be held to service standards no less than~~  
199 ~~those applied to insurers in the voluntary market by the office~~  
200 ~~with respect to responsiveness, timeliness, customer courtesy,~~  
201 ~~and overall dealings with policyholders, applicants, or agents~~  
202 ~~of the corporation.~~

203 ~~4.5.~~ Effective January 1, 2009, a personal lines

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204 residential structure that is located in the "wind-borne debris  
205 region," as defined in s. 1609.2, International Building Code  
206 (2006), and that has an insured value on the structure of  
207 \$750,000 or more is not eligible for coverage by the corporation  
208 unless the structure has opening protections as required under  
209 the Florida Building Code for a newly constructed residential  
210 structure in that area. A residential structure shall be deemed  
211 to comply with ~~the requirements of~~ this subparagraph if it has  
212 shutters or opening protections on all openings and if such  
213 opening protections complied with the Florida Building Code at  
214 the time they were installed.

215 5. In recognition of the corporation's status as a  
216 government entity, policies issued by the corporation must  
217 include a provision stating that as a condition of coverage with  
218 the corporation, policyholders may not engage the services of a  
219 public adjuster to represent the policyholder with respect to  
220 any claim incurred under a policy issued by the corporation.

221 (b)1. All insurers authorized to write one or more subject  
222 lines of business in this state are subject to assessment by the  
223 corporation and, for the purposes of this subsection, are  
224 referred to collectively as "assessable insurers." Insurers  
225 writing one or more subject lines of business in this state  
226 pursuant to part VIII of chapter 626 are not assessable  
227 insurers, but insureds who procure one or more subject lines of  
228 business in this state pursuant to part VIII of chapter 626 are  
229 subject to assessment by the corporation and are referred to  
230 collectively as "assessable insureds." An ~~authorized~~ insurer's  
231 assessment liability begins ~~shall begin~~ on the first day of the  
232 calendar year following the year in which the insurer was issued

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233 a certificate of authority to transact insurance for subject  
234 lines of business in this state and terminates ~~shall terminate~~ 1  
235 year after the end of the first calendar year during which the  
236 insurer no longer holds a certificate of authority to transact  
237 insurance for subject lines of business in this state.

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

241 (I) A personal lines account for personal residential  
242 policies issued by the corporation, or issued by the Residential  
243 Property and Casualty Joint Underwriting Association and renewed  
244 by the corporation, which provides basic ~~that provide~~  
245 ~~comprehensive~~, multiperil coverage on risks that are not located  
246 in areas eligible for coverage by ~~in~~ the Florida Windstorm  
247 Underwriting Association as those areas were defined on January  
248 1, 2002, and for ~~such~~ policies that do not provide coverage for  
249 the peril of wind on risks that are located in such areas;

250 (II) A commercial lines account for commercial residential  
251 and commercial nonresidential policies issued by the  
252 corporation, or issued by the Residential Property and Casualty  
253 Joint Underwriting Association and renewed by the corporation, which provides ~~that provide~~  
254 coverage for basic property perils  
255 on risks that are not located in areas eligible for coverage by  
256 ~~in~~ the Florida Windstorm Underwriting Association as those areas  
257 were defined on January 1, 2002, and for ~~such~~ policies that do  
258 not provide coverage for the peril of wind on risks that are  
259 located in such areas; and

260 (III) A high-risk account for personal residential policies  
261 and commercial residential and commercial nonresidential

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262 property policies issued by the corporation or transferred to  
263 the corporation, which provides ~~that provide~~ coverage for the  
264 peril of wind on risks that are located in areas eligible for  
265 coverage by ~~in~~ the Florida Windstorm Underwriting Association as  
266 those areas were defined on January 1, 2002. The corporation may  
267 offer policies that provide multiperil coverage and the  
268 corporation shall continue to offer policies that provide  
269 coverage only for the peril of wind for risks located in areas  
270 eligible for coverage in the high-risk account. In issuing  
271 multiperil coverage, the corporation may use its approved policy  
272 forms and rates for the personal lines account. An applicant or  
273 insured who is eligible to purchase a multiperil policy from the  
274 corporation may purchase a multiperil policy from an authorized  
275 insurer without prejudice to the applicant's or insured's  
276 eligibility to prospectively purchase a policy that provides  
277 coverage only for the peril of wind from the corporation. An  
278 applicant or insured who is eligible for a corporation policy  
279 that provides coverage only for the peril of wind may elect to  
280 purchase or retain such policy and also purchase or retain  
281 coverage excluding wind from an authorized insurer without  
282 prejudice to the applicant's or insured's eligibility to  
283 prospectively purchase a policy that provides multiperil  
284 coverage from the corporation. ~~It is the goal of the Legislature~~  
285 ~~that there would be an overall average savings of 10 percent or~~  
286 ~~more for a policyholder who currently has a wind-only policy~~  
287 ~~with the corporation, and an ex-wind policy with a voluntary~~  
288 ~~insurer or the corporation, and who then obtains a multiperil~~  
289 ~~policy from the corporation.~~ It is the intent of the Legislature  
290 that the offer of multiperil coverage in the high-risk account

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291 be made and implemented in a manner that does not adversely  
292 affect the tax-exempt status of the corporation or  
293 creditworthiness of or security for currently outstanding  
294 financing obligations or credit facilities of the high-risk  
295 account, the personal lines account, or the commercial lines  
296 account. ~~The high-risk account must also include quota share~~  
297 ~~primary insurance under subparagraph (e)2.~~ The area eligible for  
298 coverage under the high-risk account also includes the area  
299 within Port Canaveral, which is bordered on the south by the  
300 City of Cape Canaveral, bordered on the west by the Banana  
301 River, and bordered on the north by Federal Government property.

302 b. The three separate accounts must be maintained as long  
303 as financing obligations entered into by the Florida Windstorm  
304 Underwriting Association or Residential Property and Casualty  
305 Joint Underwriting Association are outstanding, in accordance  
306 with the terms of the corresponding financing documents. If ~~When~~  
307 the financing obligations are no longer outstanding, ~~in~~  
308 ~~accordance with the terms of the corresponding financing~~  
309 ~~documents,~~ the corporation may use a single account for all  
310 revenues, assets, liabilities, losses, and expenses of the  
311 corporation. Consistent with ~~the requirement of~~ this  
312 subparagraph and prudent investment policies that minimize the  
313 cost of carrying debt, the board shall exercise its best efforts  
314 to retire existing debt or ~~to~~ obtain the approval of necessary  
315 parties to amend the terms of existing debt, so as to structure  
316 the most efficient plan to consolidate the three separate  
317 accounts into a single account.

318 c. Creditors of the Residential Property and Casualty Joint  
319 Underwriting Association and of the accounts specified in sub-

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320 sub-subparagraphs a.(I) and (II) may have a claim against, and  
321 recourse to, those the accounts ~~referred to in sub-sub-~~  
322 ~~subparagraphs a.(I) and (II)~~ and shall have no claim against, or  
323 recourse to, the account referred to in sub-sub-subparagraph  
324 a.(III). Creditors of the Florida Windstorm Underwriting  
325 Association shall have a claim against, and recourse to, the  
326 account referred to in sub-sub-subparagraph a.(III) and shall  
327 have no claim against, or recourse to, the accounts referred to  
328 in sub-sub-subparagraphs a.(I) and (II).

329 d. Revenues, assets, liabilities, losses, and expenses not  
330 attributable to particular accounts shall be prorated among the  
331 accounts.

332 e. The Legislature finds that the revenues of the  
333 corporation are revenues that are necessary to meet the  
334 requirements set forth in documents authorizing the issuance of  
335 bonds under this subsection.

336 f. No part of the income of the corporation may inure to  
337 the benefit of any private person.

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

339 a. After accounting for the ~~Citizens~~ policyholder surcharge  
340 imposed under sub-subparagraph i., if ~~when~~ the remaining  
341 projected deficit incurred in a particular calendar year is not  
342 greater than 6 percent of the aggregate statewide direct written  
343 premium for the subject lines of business for the prior calendar  
344 year, the entire deficit shall be recovered through regular  
345 assessments of assessable insurers under paragraph (q) and  
346 assessable insureds.

347 b. After accounting for the Citizens policyholder surcharge  
348 imposed under sub-subparagraph i., when the remaining projected

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349 deficit incurred in a particular calendar year exceeds 6 percent  
350 of the aggregate statewide direct written premium for the  
351 subject lines of business for the prior calendar year, the  
352 corporation shall levy regular assessments on assessable  
353 insurers under paragraph (q) and on assessable insureds in an  
354 amount equal to the greater of 6 percent of the deficit or 6  
355 percent of the aggregate statewide direct written premium for  
356 the subject lines of business for the prior calendar year. Any  
357 remaining deficit shall be recovered through emergency  
358 assessments under sub-subparagraph d.

359 c. Each assessable insurer's share of the amount being  
360 assessed under sub-subparagraph a. or sub-subparagraph b. must  
361 ~~shall~~ be in the proportion that the assessable insurer's direct  
362 written premium for the subject lines of business for the year  
363 preceding the assessment bears to the aggregate statewide direct  
364 written premium for the subject lines of business for that year.  
365 The applicable assessment percentage ~~applicable to each~~  
366 ~~assessable insured~~ is the ratio of the amount being assessed  
367 under sub-subparagraph a. or sub-subparagraph b. to the  
368 aggregate statewide direct written premium for the subject lines  
369 of business for the prior year. Assessments levied by the  
370 corporation on assessable insurers under sub-subparagraphs a.  
371 and b. must ~~shall~~ be paid as required by the corporation's plan  
372 of operation and paragraph (q) . ~~Assessments levied by the~~  
373 ~~corporation on assessable insureds under sub-subparagraphs a.~~  
374 ~~and b. shall be~~ collected by the surplus lines agent at the time  
375 the surplus lines agent collects the surplus lines tax required  
376 by s. 626.932 . and ~~shall be~~ paid to the Florida Surplus Lines  
377 Service Office at the time the surplus lines agent pays the

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378 surplus lines tax to that ~~the Florida Surplus Lines Service~~  
379 office. Upon receipt of regular assessments from surplus lines  
380 agents, the Florida Surplus Lines Service Office shall transfer  
381 the assessments directly to the corporation as determined by the  
382 corporation.

383 d. Upon a determination by the board of governors that a  
384 deficit in an account exceeds the amount that will be recovered  
385 through regular assessments under sub-subparagraph a. or sub-  
386 subparagraph b., plus the amount that is expected to be  
387 recovered through surcharges under sub-subparagraph i., ~~as to~~  
388 ~~the remaining projected deficit~~ the board ~~shall levy~~, after  
389 verification by the office, shall levy emergency assessments,  
390 for as many years as necessary to cover the deficits, to be  
391 collected by assessable insurers and the corporation and  
392 collected from assessable insureds upon issuance or renewal of  
393 policies for subject lines of business, excluding National Flood  
394 Insurance policies. The amount of the emergency assessment  
395 collected in a particular year must ~~shall~~ be a uniform  
396 percentage of that year's direct written premium for subject  
397 lines of business ~~and all accounts of the corporation~~, excluding  
398 National Flood Insurance Program policy premiums, as annually  
399 determined by the board and verified by the office. For all  
400 accounts of the corporation, the amount of the emergency  
401 assessment levied in a particular year must be a uniform  
402 percentage equal to 1 1/2 times the uniform percentage emergency  
403 assessment levied on subject lines of business. The office shall  
404 verify the arithmetic calculations involved in the board's  
405 determination within 30 days after receipt of the information on  
406 which the determination was based. Notwithstanding any other

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

432 e. The corporation may pledge the proceeds of assessments,  
433 projected recoveries from the Florida Hurricane Catastrophe  
434 Fund, other insurance and reinsurance recoverables, policyholder  
435 surcharges and other surcharges, and other funds available to

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436 the corporation as the source of revenue for and to secure bonds  
437 issued under paragraph (q), bonds or other indebtedness issued  
438 under subparagraph (c)2.3, or lines of credit or other  
439 financing mechanisms issued or created under this subsection, or  
440 to retire any other debt incurred as a result of deficits or  
441 events giving rise to deficits, or in any other way that the  
442 board determines will efficiently recover such deficits. The  
443 purpose of the lines of credit or other financing mechanisms is  
444 to provide additional resources to assist the corporation in  
445 covering claims and expenses attributable to a catastrophe. As  
446 used in this subsection, the term "assessments" includes regular  
447 assessments under sub-subparagraph a., sub-subparagraph b., or  
448 subparagraph (q)1. and emergency assessments under sub-  
449 subparagraph d. Emergency assessments collected under sub-  
450 subparagraph d. are not part of an insurer's rates, are not  
451 premium, and are not subject to premium tax, fees, or  
452 commissions; however, failure to pay the emergency assessment  
453 shall be treated as failure to pay premium. The emergency  
454 assessments under sub-subparagraph d. shall continue as long as  
455 any bonds issued or other indebtedness incurred with respect to  
456 a deficit for which the assessment was imposed remain  
457 outstanding, unless adequate provision has been made for the  
458 payment of such bonds or other indebtedness pursuant to the  
459 documents governing such bonds or ~~other~~ indebtedness.

460 f. As used in this subsection for purposes of any deficit  
461 incurred on or after January 25, 2007, the term "subject lines  
462 of business" means insurance written by assessable insurers or  
463 procured by assessable insureds for all property and casualty  
464 lines of business in this state, but not including workers'

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465 compensation or medical malpractice. As used in this ~~the~~ sub-  
466 subparagraph, the term "property and casualty lines of business"  
467 includes all lines of business identified on Form 2, Exhibit of  
468 Premiums and Losses, in the annual statement required of  
469 authorized insurers under ~~by~~ s. 624.424 and any rule adopted  
470 under this section, except for those lines identified as  
471 accident and health insurance and except for policies written  
472 under the National Flood Insurance Program or the Federal Crop  
473 Insurance Program. For purposes of this sub-subparagraph, the  
474 term "workers' compensation" includes both workers' compensation  
475 insurance and excess workers' compensation insurance.

476 g. The Florida Surplus Lines Service Office shall determine  
477 annually the aggregate statewide written premium in subject  
478 lines of business procured by assessable insureds and ~~shall~~  
479 report that information to the corporation in a form and at a  
480 time the corporation specifies to ensure that the corporation  
481 can meet the requirements of this subsection and the  
482 corporation's financing obligations.

483 h. The Florida Surplus Lines Service Office shall verify  
484 the proper application by surplus lines agents of assessment  
485 percentages for regular assessments and emergency assessments  
486 levied under this subparagraph on assessable insureds and ~~shall~~  
487 assist the corporation in ensuring the accurate, timely  
488 collection and payment of assessments by surplus lines agents as  
489 required by the corporation.

490 i. If a deficit is incurred in any account in 2011 ~~2008~~ or  
491 thereafter, the board of governors shall levy a ~~Citizens~~  
492 policyholder surcharge against all policyholders of the  
493 corporation. ~~for a 12-month period, which~~

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494 (I) The surcharge shall be levied ~~collected at the time of~~  
495 ~~issuance or renewal of a policy,~~ as a uniform percentage of the  
496 premium for the policy of up to 15 percent of such premium,  
497 which funds shall be used to offset the deficit.

498 (II) It is the intent of the Legislature that the  
499 policyholder's liability for the surcharge attach on the date of  
500 the order levying the surcharge. The surcharge is payable upon  
501 cancellation or termination of the policy, upon renewal of the  
502 policy, or upon issuance of a new policy by the corporation  
503 within the first 12 months after the date of the levy or the  
504 period of time necessary to fully collect the surcharge amount.

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

511 (IV) The surcharge is ~~Citizens policyholder surcharges~~  
512 ~~under this sub-subparagraph~~ are not considered premium and is  
513 ~~are~~ not subject to commissions, fees, or premium taxes. However,  
514 failure to pay the surcharge ~~such surcharges~~ shall be treated as  
515 failure to pay premium.

516 j. If the amount of any assessments or surcharges collected  
517 from corporation policyholders, assessable insurers or their  
518 policyholders, or assessable insureds exceeds the amount of the  
519 deficits, such excess amounts shall be remitted to and retained  
520 by the corporation in a reserve to be used by the corporation,  
521 as determined by the board of governors and approved by the  
522 office, to pay claims or reduce any past, present, or future

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523 plan-year deficits or to reduce outstanding debt.

524 (c) The ~~plan of operation of the~~ corporation:

525 1. Must provide ~~for adoption of~~ residential property and  
526 casualty insurance policy forms and commercial residential and  
527 nonresidential property insurance forms, which ~~forms~~ must be  
528 approved by the office before ~~prior to~~ use. The corporation  
529 shall adopt and offer only the following policy forms:

530 a. Standard personal lines policy forms that are similar  
531 ~~comprehensive multiperil policies providing full coverage of a~~  
532 ~~residential property equivalent~~ to the coverage provided in the  
533 private insurance market under an HO-3, HO-4, or HO-6 policy.  
534 The corporation shall cease to offer or renew HO-3 policy forms  
535 on December 31, 2012.

536 b. Basic personal lines policy forms that are policies  
537 similar to an HO-8 policy or a dwelling fire policy that provide  
538 coverage meeting the requirements of the secondary mortgage  
539 market, but which ~~coverage~~ is more limited than the coverage  
540 under a standard policy.

541 c. Commercial lines residential and nonresidential policy  
542 forms that are generally similar to the basic perils of full  
543 coverage obtainable for commercial residential structures and  
544 commercial nonresidential structures in the admitted voluntary  
545 market.

546 d. Personal lines and commercial lines residential property  
547 insurance forms that cover the peril of wind only. The forms are  
548 applicable only to residential properties located in areas  
549 eligible for coverage under the high-risk account referred to in  
550 sub-subparagraph (b)2.a.

551 e. Commercial lines nonresidential property insurance forms

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552 that cover the peril of wind only. The forms are applicable only  
553 to nonresidential properties located in areas eligible for  
554 coverage under the high-risk account referred to in sub-  
555 subparagraph (b)2.a.

556 f. The corporation may adopt variations of the policy forms  
557 listed in sub-subparagraphs a.-e. which ~~that~~ contain more  
558 restrictive coverage.

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

565 ~~(I) "Quota share primary insurance" means an arrangement in~~  
566 ~~which the primary hurricane coverage of an eligible risk is~~  
567 ~~provided in specified percentages by the corporation and an~~  
568 ~~authorized insurer. The corporation and authorized insurer are~~  
569 ~~each solely responsible for a specified percentage of hurricane~~  
570 ~~coverage of an eligible risk as set forth in a quota share~~  
571 ~~primary insurance agreement between the corporation and an~~  
572 ~~authorized insurer and the insurance contract. The~~  
573 ~~responsibility of the corporation or authorized insurer to pay~~  
574 ~~its specified percentage of hurricane losses of an eligible~~  
575 ~~risk, as set forth in the quota share primary insurance~~  
576 ~~agreement, may not be altered by the inability of the other~~  
577 ~~party to the agreement to pay its specified percentage of~~  
578 ~~hurricane losses. Eligible risks that are provided hurricane~~  
579 ~~coverage through a quota share primary insurance arrangement~~  
580 ~~must be provided policy forms that set forth the obligations of~~

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581 ~~the corporation and authorized insurer under the arrangement,~~  
582 ~~clearly specify the percentages of quota share primary insurance~~  
583 ~~provided by the corporation and authorized insurer, and~~  
584 ~~conspicuously and clearly state that neither the authorized~~  
585 ~~insurer nor the corporation may be held responsible beyond its~~  
586 ~~specified percentage of coverage of hurricane losses.~~

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

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

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

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

607 ~~e. Any quota share primary insurance agreement entered into~~  
608 ~~between an authorized insurer and the corporation is subject to~~  
609 ~~review and approval by the office. However, such agreement shall~~

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610 ~~be authorized only as to insurance contracts entered into~~  
611 ~~between an authorized insurer and an insured who is already~~  
612 ~~insured by the corporation for wind coverage.~~

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

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

630 ~~h. The quota share primary insurance agreement between the~~  
631 ~~corporation and an authorized insurer must set forth the~~  
632 ~~specific terms under which coverage is provided, including, but~~  
633 ~~not limited to, the sale and servicing of policies issued under~~  
634 ~~the agreement by the insurance agent of the authorized insurer~~  
635 ~~producing the business, the reporting of information concerning~~  
636 ~~eligible risks, the payment of premium to the corporation, and~~  
637 ~~arrangements for the adjustment and payment of hurricane claims~~  
638 ~~incurred on eligible risks by the claims adjuster and personnel~~

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639 ~~of the authorized insurer. Entering into a quota sharing~~  
640 ~~insurance agreement between the corporation and an authorized~~  
641 ~~insurer shall be voluntary and at the discretion of the~~  
642 ~~authorized insurer.~~

643 2.3. ~~May provide that the corporation may~~ employ or  
644 otherwise contract with individuals or other entities to provide  
645 administrative or professional services ~~that may be appropriate~~  
646 ~~to effectuate the plan.~~

647 a. The corporation may ~~shall have the power to~~ borrow  
648 funds, by issuing bonds or by incurring other indebtedness, and  
649 shall have other powers reasonably necessary to effectuate the  
650 requirements of this subsection, including, without limitation,  
651 the power to issue bonds and incur other indebtedness in order  
652 to refinance outstanding bonds or other indebtedness. The  
653 corporation ~~may, but is not required to,~~ seek judicial  
654 validation of its bonds or other indebtedness under chapter 75.  
655 The corporation may issue bonds or incur other indebtedness, or  
656 have bonds issued on its behalf by a unit of local government  
657 pursuant to subparagraph (q)2., in the absence of a hurricane or  
658 other weather-related event, upon a determination by the  
659 corporation, subject to approval by the office, that such action  
660 would enable it to efficiently meet the financial obligations of  
661 the corporation and that such financings are reasonably  
662 necessary to effectuate the requirements of this subsection. The  
663 corporation may ~~is authorized to~~ take all actions needed to  
664 facilitate tax-free status for ~~any~~ such bonds or indebtedness,  
665 including formation of trusts or other affiliated entities. The  
666 corporation may ~~shall have the authority to~~ pledge assessments,  
667 projected recoveries from the Florida Hurricane Catastrophe

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668 Fund, other reinsurance recoverables, market equalization and  
669 other surcharges, and other funds available to the corporation  
670 as security for bonds or other indebtedness. In recognition of  
671 s. 10, Art. I of the State Constitution, prohibiting the  
672 impairment of obligations of contracts, it is the intent of the  
673 Legislature that no action be taken whose purpose is to impair  
674 any bond indenture or financing agreement or any revenue source  
675 committed by contract to such bond or other indebtedness.

676 b. To ensure that the corporation is operating in an  
677 efficient and economic manner while providing quality service to  
678 policyholders, applicants, and agents, the board shall  
679 commission an independent third-party consultant having  
680 expertise in insurance company management or insurance company  
681 management consulting to prepare a report and make  
682 recommendations on the relative costs and benefits of  
683 outsourcing various policy issuance and service functions to  
684 private servicing carriers or entities performing similar  
685 functions in the private market for a fee, rather than  
686 performing such functions in-house. In making such  
687 recommendations, the consultant shall consider how other  
688 residual markets, both in this state and around the country,  
689 outsource appropriate functions or use servicing carriers to  
690 better match expenses with revenues that fluctuate based on a  
691 widely varying policy count. The report must be completed by  
692 February 1, 2012. Upon receiving the report, the board shall  
693 develop a plan to implement the report and submit the plan to  
694 the Financial Services Commission. The commission has 30 days  
695 after receiving the plan to review and make additions or  
696 corrections, if any. Upon the commission's approval of the plan,

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697 the board shall begin implementing the plan by January 1, 2013.

698 3.4.a. Must ~~require that the corporation~~ operate subject to  
699 the supervision and approval of a board of governors consisting  
700 of eight individuals who are residents of this state, from  
701 different geographical areas of this state.

702 a. The Governor, the Chief Financial Officer, the President  
703 of the Senate, and the Speaker of the House of Representatives  
704 shall each appoint two members of the board. At least one of the  
705 two members appointed by each appointing officer must have  
706 demonstrated expertise in insurance, and be within the scope of  
707 the exemption provided in s. 112.313(7)(b). The Chief Financial  
708 Officer shall designate one of the appointees as chair. All  
709 board members serve at the pleasure of the appointing officer.  
710 All members of the board ~~of governors~~ are subject to removal at  
711 will by the officers who appointed them. All board members,  
712 including the chair, must be appointed to serve for 3-year terms  
713 beginning annually on a date designated by the plan. However,  
714 for the first term beginning on or after July 1, 2009, each  
715 appointing officer shall appoint one member of the board for a  
716 2-year term and one member for a 3-year term. A ~~Any~~ board  
717 vacancy shall be filled for the unexpired term by the appointing  
718 officer. The Chief Financial Officer shall appoint a technical  
719 advisory group to provide information and advice to the board ~~of~~  
720 ~~governors~~ in connection with the board's duties under this  
721 subsection. The executive director and senior managers of the  
722 corporation shall be engaged by the board and serve at the  
723 pleasure of the board. Any executive director appointed on or  
724 after July 1, 2006, is subject to confirmation by the Senate.  
725 The executive director is responsible for employing other staff

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726 as the corporation may require, subject to review and  
727 concurrence by the board.

728 b. The board shall create a Market Accountability Advisory  
729 Committee to assist the corporation in developing awareness of  
730 its rates and its customer and agent service levels in  
731 relationship to the voluntary market insurers writing similar  
732 coverage, and to provide advice on issues regarding agent  
733 appointments and compensation.

734 (I) The members of the advisory committee shall consist of  
735 the following 11 persons, one of whom must be elected chair by  
736 the members of the committee: four representatives, one  
737 appointed by the Florida Association of Insurance Agents, one by  
738 the National Florida Association of Insurance and Financial  
739 Advisors-Florida Advisers, one by the Professional Insurance  
740 Agents of Florida, and one by the Latin American Association of  
741 Insurance Agencies; three representatives appointed by the  
742 insurers with the three highest voluntary market share of  
743 residential property insurance business in the state; one  
744 representative from the Office of Insurance Regulation; one  
745 consumer appointed by the board who is insured by the  
746 corporation at the time of appointment to the committee; one  
747 representative appointed by the Florida Association of Realtors;  
748 and one representative appointed by the Florida Bankers  
749 Association. All members shall be appointed to ~~must serve for~~ 3-  
750 year terms and may serve for consecutive terms.

751 (II) The committee shall report to the corporation at each  
752 board meeting on insurance market issues which may include rates  
753 and rate competition with the voluntary market; service,  
754 including policy issuance, claims processing, and general

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755 responsiveness to policyholders, applicants, and agents; and  
756 matters relating to depopulation, producer compensation, or  
757 agency agreements.

758 ~~4.5.~~ Must provide a procedure for determining the  
759 eligibility of a risk for coverage, as follows:

760 a. Subject to ~~the provisions of~~ s. 627.3517, with respect  
761 to personal lines residential risks, if the risk is offered  
762 coverage from an authorized insurer at the insurer's approved  
763 rate under ~~either~~ a standard policy including wind coverage or,  
764 if consistent with the insurer's underwriting rules as filed  
765 with the office, a basic policy including wind coverage, for a  
766 new application to the corporation for coverage, the risk is not  
767 eligible for any policy issued by the corporation ~~unless the~~  
768 ~~premium for coverage from the authorized insurer is more than 15~~  
769 ~~percent greater than the premium for comparable coverage from~~  
770 ~~the corporation.~~ If the risk is not able to obtain any such  
771 offer, the risk is eligible for ~~either~~ a standard policy  
772 including wind coverage or a basic policy including wind  
773 coverage issued by the corporation; however, if the risk could  
774 not be insured under a standard policy including wind coverage  
775 regardless of market conditions, the risk is ~~shall be~~ eligible  
776 for a basic policy including wind coverage unless rejected under  
777 subparagraph 9. 8. Notwithstanding these limitations, an  
778 application for coverage having an effective date before January  
779 1, 2015, is eligible for coverage by the corporation if the  
780 premium for coverage from an authorized insurer exceeds the  
781 premium from the corporation by more than 25 percent. ~~However,~~  
782 ~~with regard to a policyholder of the corporation or a~~  
783 ~~policyholder removed from the corporation through an assumption~~

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784 ~~agreement until the end of the assumption period, the~~  
785 ~~policyholder remains eligible for coverage from the corporation~~  
786 ~~regardless of any offer of coverage from an authorized insurer~~  
787 ~~or surplus lines insurer.~~ The corporation shall determine the  
788 type of policy to be provided on the basis of objective  
789 standards specified in the underwriting manual and based on  
790 generally accepted underwriting practices.

791 (I) If the risk accepts an offer of coverage through the  
792 market assistance plan or ~~an offer of coverage~~ through a  
793 mechanism established by the corporation before a policy is  
794 issued to the risk by the corporation or during the first 30  
795 days of coverage by the corporation, and the producing agent who  
796 submitted the application to the plan or to the corporation is  
797 not currently appointed by the insurer, the insurer shall:

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

803 (B) Offer to allow the producing agent of record of the  
804 policy to continue servicing the policy for at least ~~a period of~~  
805 ~~not less than~~ 1 year and offer to pay the agent the greater of  
806 the insurer's or the corporation's usual and customary  
807 commission for the type of policy written.

808  
809 If the producing agent is unwilling or unable to accept  
810 appointment, the new insurer shall pay the agent in accordance  
811 with sub-sub-sub-subparagraph (A).

812 (II) If ~~When~~ the corporation enters into a contractual

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813 agreement for a take-out plan, the producing agent of record of  
814 the corporation policy is entitled to retain any unearned  
815 commission on the policy, and the insurer shall:

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

821 (B) Offer to allow the producing agent ~~of record of the~~  
822 ~~corporation policy~~ to continue servicing the policy for at least  
823 ~~a period of not less than~~ 1 year and offer to pay the agent the  
824 greater of the insurer's or the corporation's usual and  
825 customary commission for the type of policy written.

826  
827 If the producing agent is unwilling or unable to accept  
828 appointment, the new insurer shall pay the agent in accordance  
829 with sub-sub-sub-paragraph (A).

830 b. Subject to s. 627.3517, with respect to commercial lines  
831 residential risks, ~~for a new application to the corporation for~~  
832 ~~coverage~~, if the risk is offered coverage under a policy  
833 including wind coverage from an authorized insurer at its  
834 approved rate, the risk is not eligible for a any policy issued  
835 by the corporation ~~unless the premium for coverage from the~~  
836 ~~authorized insurer is more than 15 percent greater than the~~  
837 ~~premium for comparable coverage from the corporation~~. If the  
838 risk is not able to obtain any such offer, the risk is eligible  
839 for a policy including wind coverage issued by the corporation.  
840 Notwithstanding these limitations, an application for coverage  
841 having an effective date before January 1, 2015, is eligible for

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842 coverage by the corporation if the premium for coverage from an  
843 authorized insurer exceeds the premium from the corporation by  
844 more than 25 percent. ~~However, with regard to a policyholder of~~  
845 ~~the corporation or a policyholder removed from the corporation~~  
846 ~~through an assumption agreement until the end of the assumption~~  
847 ~~period, the policyholder remains eligible for coverage from the~~  
848 ~~corporation regardless of any offer of coverage from an~~  
849 ~~authorized insurer or surplus lines insurer.~~

850 (I) If the risk accepts an offer of coverage through the  
851 market assistance plan or ~~an offer of coverage~~ through a  
852 mechanism established by the corporation before a policy is  
853 issued to the risk by the corporation or during the first 30  
854 days of coverage by the corporation, and the producing agent who  
855 submitted the application to the plan or the corporation is not  
856 currently appointed by the insurer, the insurer shall:

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

862 (B) Offer to allow the producing agent ~~of record of the~~  
863 ~~policy~~ to continue servicing the policy for at least a period of  
864 ~~not less than~~ 1 year and offer to pay the agent the greater of  
865 the insurer's or the corporation's usual and customary  
866 commission for the type of policy written.

867  
868 If the producing agent is unwilling or unable to accept  
869 appointment, the new insurer shall pay the agent in accordance  
870 with sub-sub-sub-subparagraph (A).

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

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

880 (B) Offer to allow the producing agent ~~of record of the~~  
881 ~~corporation policy~~ to continue servicing the policy for at least  
882 ~~a period of not less than~~ 1 year and offer to pay the agent the  
883 greater of the insurer's or the corporation's usual and  
884 customary commission for the type of policy written.

885  
886 If the producing agent is unwilling or unable to accept  
887 appointment, the new insurer shall pay the agent in accordance  
888 with sub-sub-sub-subparagraph (A).

889 c. Effective upon this act becoming a law, the corporation  
890 shall cease to accept applications for or issue new policies  
891 covering commercial nonresidential risks. ~~For purposes of~~  
892 ~~determining comparable coverage under sub-subparagraphs a. and~~  
893 ~~b., the comparison shall be based on those forms and coverages~~  
894 ~~that are reasonably comparable. The corporation may rely on a~~  
895 ~~determination of comparable coverage and premium made by the~~  
896 ~~producing agent who submits the application to the corporation,~~  
897 ~~made in the agent's capacity as the corporation's agent. A~~  
898 ~~comparison may be made solely of the premium with respect to the~~  
899 ~~main building or structure only on the following basis: the same~~

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900 ~~coverage A or other building limits; the same percentage~~  
901 ~~hurricane deductible that applies on an annual basis or that~~  
902 ~~applies to each hurricane for commercial residential property;~~  
903 ~~the same percentage of ordinance and law coverage, if the same~~  
904 ~~limit is offered by both the corporation and the authorized~~  
905 ~~insurer; the same mitigation credits, to the extent the same~~  
906 ~~types of credits are offered both by the corporation and the~~  
907 ~~authorized insurer; the same method for loss payment, such as~~  
908 ~~replacement cost or actual cash value, if the same method is~~  
909 ~~offered both by the corporation and the authorized insurer in~~  
910 ~~accordance with underwriting rules; and any other form or~~  
911 ~~coverage that is reasonably comparable as determined by the~~  
912 ~~board. If an application is submitted to the corporation for~~  
913 ~~wind-only coverage in the high-risk account, the premium for the~~  
914 ~~corporation's wind-only policy plus the premium for the ex-wind~~  
915 ~~policy that is offered by an authorized insurer to the applicant~~  
916 ~~shall be compared to the premium for multiperil coverage offered~~  
917 ~~by an authorized insurer, subject to the standards for~~  
918 ~~comparison specified in this subparagraph. If the corporation or~~  
919 ~~the applicant requests from the authorized insurer a breakdown~~  
920 ~~of the premium of the offer by types of coverage so that a~~  
921 ~~comparison may be made by the corporation or its agent and the~~  
922 ~~authorized insurer refuses or is unable to provide such~~  
923 ~~information, the corporation may treat the offer as not being an~~  
924 ~~offer of coverage from an authorized insurer at the insurer's~~  
925 ~~approved rate.~~

926 5.6. Must include rules for classifications of risks and  
927 rates therefor.

928 6.7. Must provide that if premium and investment income for

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929 an account attributable to a particular calendar year are in  
930 excess of projected losses and expenses for the account  
931 attributable to that year, such excess shall be held in surplus  
932 in the account. Such surplus must ~~shall~~ be available to defray  
933 deficits in that account as to future years and ~~shall be~~ used  
934 for that purpose before ~~prior to~~ assessing assessable insurers  
935 and assessable insureds as to any calendar year.

936 ~~7.8.~~ Must provide objective criteria and procedures to be  
937 uniformly applied to ~~for~~ all applicants in determining whether  
938 an individual risk is so hazardous as to be uninsurable. In  
939 making this determination and in establishing the criteria and  
940 procedures, the following must ~~shall~~ be considered:

941 a. Whether the likelihood of a loss for the individual risk  
942 is substantially higher than for other risks of the same class;  
943 and

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

946

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

950 ~~8.9.~~ ~~Must provide that the corporation~~ Shall make its best  
951 efforts to procure catastrophe reinsurance at reasonable rates,  
952 to cover its projected 100-year probable maximum loss as  
953 determined by the board of governors.

954 ~~9.10.~~ Must issue ~~The policies that issued by the~~  
955 ~~corporation must~~ provide that, if the corporation or the market  
956 assistance plan obtains an offer from an authorized insurer to  
957 cover the risk at its approved rates, the risk is no longer

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958 eligible for renewal through the corporation, except as  
959 otherwise provided in this subsection.

960 ~~10.11. Must Corporation Policies and applications must~~  
961 include a notice in the corporation policies and applications  
962 that the corporation policy could, under this section, be  
963 replaced with a policy issued by an authorized insurer which  
964 ~~that~~ does not provide coverage identical to the coverage  
965 provided by the corporation. The notice must ~~shall~~ also specify  
966 that acceptance of corporation coverage creates a conclusive  
967 presumption that the applicant or policyholder is aware of this  
968 potential.

969 ~~11.12. May establish, subject to approval by the office,~~  
970 different eligibility requirements and operational procedures  
971 for any line or type of coverage for any specified county or  
972 area if the board determines that such changes ~~to the~~  
973 ~~eligibility requirements and operational procedures~~ are  
974 justified due to the voluntary market being sufficiently stable  
975 and competitive in such area or for such line or type of  
976 coverage and that consumers who, in good faith, are unable to  
977 obtain insurance through the voluntary market through ordinary  
978 methods ~~would~~ continue to have access to coverage from the  
979 corporation. If ~~When~~ coverage is sought in connection with a  
980 real property transfer, the ~~such~~ requirements and procedures may  
981 ~~shall~~ not provide ~~for~~ an effective date of coverage later than  
982 the date of the closing of the transfer as established by the  
983 transferor, the transferee, and, if applicable, the lender.

984 ~~12.13. Must provide that, with respect to the high-risk~~  
985 account, any assessable insurer with a surplus as to  
986 policyholders of \$25 million or less writing 25 percent or more

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987 of its total countrywide property insurance premiums in this  
988 state may petition the office, within the first 90 days of each  
989 calendar year, to qualify as a limited apportionment company. A  
990 regular assessment levied by the corporation on a limited  
991 apportionment company for a deficit incurred by the corporation  
992 for the high-risk account ~~in 2006 or thereafter~~ may be paid to  
993 the corporation on a monthly basis as the assessments are  
994 collected by the limited apportionment company from its insureds  
995 pursuant to s. 627.3512, but the regular assessment must be paid  
996 in full within 12 months after being levied by the corporation.  
997 A limited apportionment company shall collect from its  
998 policyholders any emergency assessment imposed under sub-  
999 subparagraph (b)3.d. ~~The plan shall provide that,~~ If the office  
1000 determines that any regular assessment will result in an  
1001 impairment of the surplus of a limited apportionment company,  
1002 the office may direct that all or part of such assessment be  
1003 deferred as provided in subparagraph (q)4. However, ~~there shall~~  
1004 ~~be no limitation or deferment of~~ an emergency assessment to be  
1005 collected from policyholders under sub-subparagraph (b)3.d. may  
1006 not be limited or deferred.

1007 13.14. Effective January 1, 2012, ~~must provide that the~~  
1008 ~~corporation~~ appoint as its licensed agents only those agents who  
1009 also hold an appointment as defined in s. 626.015(3) with an  
1010 insurer who ~~at the time of the agent's initial appointment by~~  
1011 ~~the corporation~~ is authorized to write and is actually writing  
1012 personal lines residential property coverage, commercial  
1013 residential property coverage, or commercial nonresidential  
1014 property coverage within the state.

1015 14.15. ~~Must provide, by July 1, 2007,~~ a premium payment

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1016 plan option to its policyholders which, allows at a minimum,  
 1017 allows for quarterly and semiannual payment of premiums. A  
 1018 monthly payment plan may, ~~but is not required to,~~ be offered.

1019 ~~15.16.~~ Must limit coverage on mobile homes or manufactured  
 1020 homes built before ~~prior to~~ 1994 to actual cash value of the  
 1021 dwelling rather than replacement costs of the dwelling.

1022 ~~16.17.~~ May provide such limits of coverage as the board  
 1023 determines, consistent with the requirements of this subsection.

1024 ~~17.18.~~ May require commercial property to meet specified  
 1025 hurricane mitigation construction features as a condition of  
 1026 eligibility for coverage.

1027 18. As of January 1, 2012, must require that the agent  
 1028 obtain from an applicant for coverage from the corporation an  
 1029 acknowledgement signed by the applicant, which includes, at a  
 1030 minimum, the following statement:

1031  
 1032 ACKNOWLEDGEMENT OF POTENTIAL SURCHARGE AND ASSESSMENT LIABILITY:  
 1033

1034 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE  
 1035 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A  
 1036 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,  
 1037 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND  
 1038 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE  
 1039 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT  
 1040 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA  
 1041 LEGISLATURE.

1042 2. I ALSO UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY  
 1043 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER  
 1044 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE

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1045 FLORIDA LEGISLATURE.

1046 3. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE  
1047 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE  
1048 STATE OF FLORIDA.

1049  
1050 a. The corporation shall maintain, in electronic format or  
1051 otherwise, a copy of the applicant's signed acknowledgement and  
1052 provide a copy of the statement to the policyholder as part of  
1053 the first renewal after the effective date of this sub-  
1054 subparagraph.

1055 b. The signed acknowledgement form creates a conclusive  
1056 presumption that the policyholder understood and accepted his or  
1057 her potential surcharge and assessment liability as a  
1058 policyholder of the corporation.

1059 19. Upon notice and determination by the Department of  
1060 Financial Services that an agent appointed by the corporation  
1061 has violated s. 626.9541(1)(h), immediately terminate the  
1062 agent's appointment to represent the corporation.

1063 20. Must provide that new or renewal policies issued by the  
1064 corporation on or after January 1, 2012, do not include coverage  
1065 for attached or detached screen enclosures. The corporation is  
1066 not required to issue a notice of nonrenewal to exclude this  
1067 coverage upon the renewal of current policies, but shall exclude  
1068 such coverage using a notice of coverage change.

1069 21. Must provide that new or renewal policies issued by the  
1070 corporation on or after January 1, 2012, which cover the peril  
1071 of sinkhole do not include coverage for any loss to appurtenant  
1072 structures, driveways, sidewalks, decks, or patios which is  
1073 caused directly or indirectly by sinkhole activity. The

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1074 corporation is not required to issue a notice of nonrenewal to  
1075 exclude this coverage upon the renewal of current policies, but  
1076 shall exclude such coverage using a notice of coverage change  
1077 which may be included with the policy renewal.

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

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

1089 3. Senior managers and members of the board of governors  
1090 are subject to ~~the provisions of~~ part III of chapter 112,  
1091 including, but not limited to, the code of ethics and public  
1092 disclosure and reporting of financial interests, pursuant to s.  
1093 112.3145.

1094 a. Senior managers and board members are also required to  
1095 file such disclosures with the Commission on Ethics and the  
1096 Office of Insurance Regulation. The executive director of the  
1097 corporation or his or her designee shall notify each existing  
1098 and newly appointed ~~and existing appointed~~ member of the board  
1099 of governors and senior managers of their duty to comply with  
1100 the reporting requirements of part III of chapter 112. At least  
1101 quarterly, the executive director or his or her designee shall  
1102 submit to the Commission on Ethics a list of names of the senior

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1103 managers and members of the board of governors who are subject  
1104 to the public disclosure requirements under s. 112.3145.

1105 b. Notwithstanding s. 112.3143(2), a board member may not  
1106 vote on any measure that would inure to his or her special  
1107 private gain or loss; that he or she knows would inure to the  
1108 special private gain or loss of any principal by whom he or she  
1109 is retained or to the parent organization or subsidiary of a  
1110 corporate principal by which he or she is retained, other than  
1111 an agency as defined in s. 112.312; or that he or she knows  
1112 would inure to the special private gain or loss of a relative or  
1113 business associate of the public officer. Before the vote is  
1114 taken, such member must publicly state to the assembly the  
1115 nature of his or her interest in the matter from which he or she  
1116 is abstaining and, within 15 days after the vote occurs,  
1117 disclose the nature of his or her interest as a public record in  
1118 a memorandum filed with the person responsible for recording the  
1119 minutes of the meeting, who shall incorporate the memorandum in  
1120 the minutes.

1121 4. Notwithstanding s. 112.3148 or s. 112.3149, or any other  
1122 provision of law, an employee or board member may not knowingly  
1123 accept, directly or indirectly, any gift or expenditure from a  
1124 person or entity, or an employee or representative of such  
1125 person or entity, which ~~that~~ has a contractual relationship with  
1126 the corporation or who is under consideration for a contract. An  
1127 employee or board member who fails to comply with subparagraph  
1128 3. or this subparagraph is subject to penalties provided under  
1129 ss. 112.317 and 112.3173.

1130 5. Any senior manager of the corporation who is employed on  
1131 or after January 1, 2007, regardless of the date of hire, who

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1132 subsequently retires or terminates employment is prohibited from  
1133 representing another person or entity before the corporation for  
1134 2 years after retirement or termination of employment from the  
1135 corporation.

1136 6. Any senior manager of the corporation who is employed on  
1137 or after January 1, 2007, regardless of the date of hire, who  
1138 subsequently retires or terminates employment is prohibited from  
1139 having any employment or contractual relationship for 2 years  
1140 with an insurer that has entered into a take-out bonus agreement  
1141 with the corporation.

1142 (n)~~1~~. It is the intent of the Legislature that the rates  
1143 for coverage provided by the corporation be actuarially  
1144 determined and not be competitive with rates charged in the  
1145 admitted voluntary market such that the corporation functions as  
1146 a residual market mechanism that provides insurance only if such  
1147 insurance cannot be procured in the voluntary market. To achieve  
1148 this goal, for any rate filing made by the corporation on or  
1149 after July 1, 2011: Rates for coverage provided by the  
1150 ~~corporation shall be actuarially sound and subject to the~~  
1151 ~~requirements of s. 627.062, except as otherwise provided in this~~  
1152 ~~paragraph. The corporation shall file its recommended rates with~~  
1153 ~~the office at least annually. The corporation shall provide any~~  
1154 ~~additional information regarding the rates which the office~~  
1155 ~~requires. The office shall consider the recommendations of the~~  
1156 ~~board and issue a final order establishing the rates for the~~  
1157 ~~corporation within 45 days after the recommended rates are~~  
1158 ~~filed. The corporation may not pursue an administrative~~  
1159 ~~challenge or judicial review of the final order of the office.~~

1160 1. The corporation shall file its recommended rates with

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1161 the office at least annually. The office shall consider the  
1162 recommended rates and issue a final order establishing the rates  
1163 within 45 days after the recommended rates are filed. The  
1164 corporation may not pursue an administrative challenge or  
1165 judicial review of the office's final order.

1166 2. In developing its rates, the corporation shall use an  
1167 appropriate industry expense equalization factor to ensure that  
1168 its rates include standard industry ratemaking expense  
1169 provisions. The industry expense equalization factor must  
1170 include a catastrophe risk load, a provision for taxes, a market  
1171 provision for reinsurance costs, and an industry expense  
1172 provision for general expenses, acquisition expenses, and  
1173 commissions.

1174 3. The corporation shall implement a rate increase each  
1175 year for each residential line of business it writes, which may  
1176 not exceed 20 percent by territory and 25 percent for any single  
1177 policy, excluding coverage changes and surcharges. This  
1178 subparagraph expires January 1, 2015, and does not apply to  
1179 rates for sinkhole coverage or costs for the purchase of private  
1180 reinsurance, if any.

1181 4.2. In addition to the rates otherwise determined pursuant  
1182 to this paragraph, the corporation shall impose and collect an  
1183 amount equal to the premium tax provided for in s. 624.509 to  
1184 augment the financial resources of the corporation.

1185 ~~3. After the public hurricane loss-projection model under~~  
1186 ~~s. 627.06281 has been found to be accurate and reliable by the~~  
1187 ~~Florida Commission on Hurricane Loss Projection Methodology,~~  
1188 ~~that model shall serve as the minimum benchmark for determining~~  
1189 ~~the windstorm portion of the corporation's rates. This~~

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1190 ~~subparagraph does not require or allow the corporation to adopt~~  
1191 ~~rates lower than the rates otherwise required or allowed by this~~  
1192 ~~paragraph.~~

1193 ~~4. The rate filings for the corporation which were approved~~  
1194 ~~by the office and which took effect January 1, 2007, are~~  
1195 ~~rescinded, except for those rates that were lowered. As soon as~~  
1196 ~~possible, the corporation shall begin using the lower rates that~~  
1197 ~~were in effect on December 31, 2006, and shall provide refunds~~  
1198 ~~to policyholders who have paid higher rates as a result of that~~  
1199 ~~rate filing. The rates in effect on December 31, 2006, shall~~  
1200 ~~remain in effect for the 2007 and 2008 calendar years except for~~  
1201 ~~any rate change that results in a lower rate. The next rate~~  
1202 ~~change that may increase rates shall take effect pursuant to a~~  
1203 ~~new rate filing recommended by the corporation and established~~  
1204 ~~by the office, subject to the requirements of this paragraph.~~

1205 ~~5. Beginning on July 15, 2009, and each year thereafter,~~  
1206 ~~the corporation must make a recommended actuarially sound rate~~  
1207 ~~filing for each personal and commercial line of business it~~  
1208 ~~writes, to be effective no earlier than January 1, 2010.~~

1209 ~~6. Beginning on or after January 1, 2010, and~~  
1210 ~~notwithstanding the board's recommended rates and the office's~~  
1211 ~~final order regarding the corporation's filed rates under~~  
1212 ~~subparagraph 1., the corporation shall implement a rate increase~~  
1213 ~~each year which does not exceed 10 percent for any single policy~~  
1214 ~~issued by the corporation, excluding coverage changes and~~  
1215 ~~surcharges.~~

1216 ~~5.7.~~ The corporation may also implement an increase to  
1217 reflect the effect on the corporation of the cash buildup factor  
1218 pursuant to s. 215.555(5)(b).

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1219 6. This paragraph does not require or allow the corporation  
1220 to reduce rates.

1221 ~~8. The corporation's implementation of rates as prescribed~~  
1222 ~~in subparagraph 6. shall cease for any line of business written~~  
1223 ~~by the corporation upon the corporation's implementation of~~  
1224 ~~actuarially sound rates. Thereafter, the corporation shall~~  
1225 ~~annually make a recommended actuarially sound rate filing for~~  
1226 ~~each commercial and personal line of business the corporation~~  
1227 ~~writes.~~

1228 (o) If coverage in an account is deactivated pursuant to  
1229 paragraph (p), coverage through the corporation shall be  
1230 reactivated by order of the office only under one of the  
1231 following circumstances:

1232 1. If the market assistance plan receives a minimum of 100  
1233 applications for coverage within a 3-month period, or 200  
1234 applications for coverage within a 1-year period or less for  
1235 residential coverage, unless the market assistance plan provides  
1236 a quotation from admitted carriers at their filed rates for at  
1237 least 90 percent of such applicants. A ~~Any~~ market assistance  
1238 plan application that is rejected because an individual risk is  
1239 so hazardous as to be uninsurable using the criteria specified  
1240 in subparagraph (c)7. ~~may (e)8. shall~~ not be included in the  
1241 minimum percentage calculation ~~provided herein.~~ If ~~In the event~~  
1242 ~~that~~ there is a legal or administrative challenge to a  
1243 determination by the office that the conditions of this  
1244 subparagraph have been met for eligibility for coverage by ~~in~~  
1245 the corporation, an ~~any~~ eligible risk may obtain coverage during  
1246 the pendency of such challenge.

1247 2. In response to a state of emergency declared by the

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1248 Governor under s. 252.36, the office may activate coverage by  
1249 order during ~~for the period of~~ the emergency upon a finding by  
1250 the office that the emergency significantly affects the  
1251 availability of residential property insurance.

1252 (s)1. There is ~~shall be~~ no liability on the part of, and no  
1253 cause of action ~~of any nature~~ shall arise against, any  
1254 assessable insurer or its agents or employees, the corporation  
1255 or its agents or employees, members of the board of governors or  
1256 their respective designees at a board meeting, corporation  
1257 committee members, or the office or its representatives, for any  
1258 action taken by them in the performance of their duties or  
1259 responsibilities under this subsection.

1260 a. As part of the immunity, the corporation, as a  
1261 governmental entity serving a public purpose, is not liable for  
1262 any claim for bad faith whether or not brought pursuant to s.  
1263 624.155, and this subsection or any other provision of law does  
1264 not create liability or a cause of action for bad faith or a  
1265 claim for extracontractual damages.

1266 b. Such immunity does not apply to:

1267 (I)~~a.~~ Any of the foregoing persons or entities for any  
1268 willful tort;

1269 (II)~~b.~~ The corporation or its producing agents for breach  
1270 of any contract or agreement pertaining to insurance coverage;

1271 (III)~~c.~~ The corporation with respect to issuance or payment  
1272 of debt;

1273 (IV)~~d.~~ An ~~Any~~ assessable insurer with respect to any action  
1274 to enforce an assessable insurer's obligations to the  
1275 corporation under this subsection; or

1276 (V)~~e.~~ The corporation in any pending or future action for

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1277 breach of contract or for benefits under a policy issued by the  
1278 corporation. ~~In any such action, the corporation is shall be~~  
1279 liable to the policyholders and beneficiaries for attorney's  
1280 fees under s. 627.428.

1281 2. The corporation shall manage its claim employees,  
1282 independent adjusters, and others who handle claims to ensure  
1283 they carry out the corporation's duty to its policyholders to  
1284 handle claims carefully, timely, diligently, and in good faith,  
1285 balanced against the corporation's duty to the state to manage  
1286 its assets responsibly in order to minimize its assessment  
1287 potential.

1288 (w) Notwithstanding any other provision of law:

1289 1. The pledge or sale of, the lien upon, and the security  
1290 interest in any rights, revenues, or other assets of the  
1291 corporation created or purported to be created pursuant to any  
1292 financing documents to secure any bonds or other indebtedness of  
1293 the corporation shall be and remain valid and enforceable,  
1294 notwithstanding the commencement of and during the continuation  
1295 of, and after, any rehabilitation, insolvency, liquidation,  
1296 bankruptcy, receivership, conservatorship, reorganization, or  
1297 similar proceeding against the corporation under the laws of  
1298 this state.

1299 2. ~~No~~ Such proceeding does not shall relieve the  
1300 corporation of its obligation, or otherwise affect its ability  
1301 to perform its obligation, to continue to collect, or levy and  
1302 collect, assessments, market equalization or other surcharges  
1303 ~~under subparagraph (c)10.~~, or any other rights, revenues, or  
1304 other assets of the corporation pledged pursuant to any  
1305 financing documents.

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1306           3. Each such pledge or sale of, lien upon, and security  
1307 interest in, including the priority of such pledge, lien, or  
1308 security interest, any such assessments, market equalization or  
1309 other surcharges, or other rights, revenues, or other assets  
1310 which are collected, or levied and collected, after the  
1311 commencement of and during the pendency of, or after, any such  
1312 proceeding continues ~~shall continue~~ unaffected by such  
1313 proceeding. As used in this subsection, the term "financing  
1314 documents" means any agreement or agreements, instrument or  
1315 instruments, or other document or documents now existing or  
1316 hereafter created evidencing any bonds or other indebtedness of  
1317 the corporation or pursuant to which any such bonds or other  
1318 indebtedness has been or may be issued and pursuant to which any  
1319 rights, revenues, or other assets of the corporation are pledged  
1320 or sold to secure the repayment of such bonds or indebtedness,  
1321 together with the payment of interest on such bonds or such  
1322 indebtedness, or the payment of any other obligation or  
1323 financial product, as defined in the plan of operation of the  
1324 corporation related to such bonds or indebtedness.

1325           4. Any such pledge or sale of assessments, revenues,  
1326 contract rights, or other rights or assets of the corporation  
1327 constitutes ~~shall constitute~~ a lien and security interest, or  
1328 sale, as the case may be, that is immediately effective and  
1329 attaches to such assessments, revenues, or contract rights or  
1330 other rights or assets, whether or not imposed or collected at  
1331 the time the pledge or sale is made. ~~Any~~ Such pledge or sale is  
1332 effective, valid, binding, and enforceable against the  
1333 corporation or other entity making such pledge or sale, and  
1334 valid and binding against and superior to any competing claims

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1335 or obligations owed to any other person or entity, including  
1336 policyholders in this state, asserting rights in any such  
1337 assessments, revenues, or contract rights or other rights or  
1338 assets to the extent set forth in and in accordance with the  
1339 terms of the pledge or sale contained in the applicable  
1340 financing documents, whether or not any such person or entity  
1341 has notice of such pledge or sale and without the need for any  
1342 physical delivery, recordation, filing, or other action.

1343 5. If ~~As long as~~ the corporation has any bonds outstanding,  
1344 the corporation may not file a voluntary petition under chapter  
1345 9 of the federal Bankruptcy Code or such corresponding chapter  
1346 or sections as may be in effect, ~~from time to time~~, and a public  
1347 officer or any organization, entity, or other person may not  
1348 authorize the corporation to be or become a debtor under chapter  
1349 9 of the federal Bankruptcy Code or such corresponding chapter  
1350 or sections as may be in effect, ~~from time to time~~, during any  
1351 such period.

1352 6. If ordered by a court ~~of competent jurisdiction~~, the  
1353 corporation may assume policies or otherwise provide coverage  
1354 for policyholders of an insurer placed in liquidation under  
1355 chapter 631, under such forms, rates, terms, and conditions as  
1356 the corporation deems appropriate, subject to approval by the  
1357 office.

1358 (y) It is the intent of the Legislature that the amendments  
1359 to this subsection enacted in 2002 should, over time, reduce the  
1360 probable maximum windstorm losses in the residual markets and  
1361 ~~should~~ reduce the potential assessments to be levied on property  
1362 insurers and policyholders statewide. ~~In furtherance of this~~  
1363 ~~intent:~~

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1364           ~~1. The board shall, on or before February 1 of each year,~~  
1365 ~~provide a report to the President of the Senate and the Speaker~~  
1366 ~~of the House of Representatives showing the reduction or~~  
1367 ~~increase in the 100-year probable maximum loss attributable to~~  
1368 ~~wind-only coverages and the quota share program under this~~  
1369 ~~subsection combined, as compared to the benchmark 100-year~~  
1370 ~~probable maximum loss of the Florida Windstorm Underwriting~~  
1371 ~~Association. For purposes of this paragraph, the benchmark 100-~~  
1372 ~~year probable maximum loss of the Florida Windstorm Underwriting~~  
1373 ~~Association shall be the calculation dated February 2001 and~~  
1374 ~~based on November 30, 2000, exposures. In order to ensure~~  
1375 ~~comparability of data, the board shall use the same methods for~~  
1376 ~~calculating its probable maximum loss as were used to calculate~~  
1377 ~~the benchmark probable maximum loss.~~

1378           ~~2. Beginning December 1, 2010, if the report under~~  
1379 ~~subparagraph 1. for any year indicates that the 100-year~~  
1380 ~~probable maximum loss attributable to wind-only coverages and~~  
1381 ~~the quota share program combined does not reflect a reduction of~~  
1382 ~~at least 25 percent from the benchmark, the board shall reduce~~  
1383 ~~the boundaries of the high-risk area eligible for wind-only~~  
1384 ~~coverages under this subsection in a manner calculated to reduce~~  
1385 ~~such probable maximum loss to an amount at least 25 percent~~  
1386 ~~below the benchmark.~~

1387           ~~3. Beginning February 1, 2015, if the report under~~  
1388 ~~subparagraph 1. for any year indicates that the 100-year~~  
1389 ~~probable maximum loss attributable to wind-only coverages and~~  
1390 ~~the quota share program combined does not reflect a reduction of~~  
1391 ~~at least 50 percent from the benchmark, the boundaries of the~~  
1392 ~~high-risk area eligible for wind-only coverages under this~~

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1393 ~~subsection shall be reduced by the elimination of any area that~~  
1394 ~~is not seaward of a line 1,000 feet inland from the Intracoastal~~  
1395 ~~Waterway.~~

1396 (aa) As a condition of eligibility for coverage by the  
1397 corporation, an applicant or insured of a property located in  
1398 Special Flood Hazard Area, as defined by the National Flood  
1399 Insurance Program, must maintain in effect a separate flood  
1400 insurance policy having coverage limits for building and  
1401 contents at least equal to those provided under the  
1402 corporation's policy, subject to the maximum limits available  
1403 under the National Flood Insurance Program policy. This  
1404 requirement does not apply to an insured who is a tenant or a  
1405 condominium unit owner above the ground floor; a policy issued  
1406 by the corporation which excludes wind and hail coverage; a risk  
1407 that is not eligible for flood coverage under the National Flood  
1408 Insurance Program; or a mobile home that is located more than 2  
1409 miles from open water, including the ocean, the gulf, a bay, a  
1410 river, or the intracoastal waterway. This paragraph applies to  
1411 new policies issued by the corporation on or after January 1,  
1412 2012, and to policies renewed by the corporation on or after  
1413 January 1, 2013. The corporation shall not require the securing  
1414 of flood insurance as a condition of coverage if the insured or  
1415 applicant executes a form approved by the office affirming that  
1416 flood insurance is not provided by the corporation and that if  
1417 flood insurance is not secured by the applicant or insured in  
1418 addition to coverage by the corporation, the risk will not be  
1419 covered for flood damage. A corporation policyholder electing  
1420 not to secure flood insurance and executing a form as provided  
1421 herein making a claim for water damage against the corporation

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1422 shall have the burden of proving the damage was not caused by  
1423 flooding. Notwithstanding other provisions of this subsection,  
1424 the corporation may deny coverage to an applicant or insured who  
1425 refuses to execute the form described herein.

1426 ~~(cc) The office may establish a pilot program to offer~~  
1427 ~~optional sinkhole coverage in one or more counties or other~~  
1428 ~~territories of the corporation for the purpose of implementing~~  
1429 ~~s. 627.706, as amended by s. 30, chapter 2007-1, Laws of~~  
1430 ~~Florida. Under the pilot program, the corporation is not~~  
1431 ~~required to issue a notice of nonrenewal to exclude sinkhole~~  
1432 ~~coverage upon the renewal of existing policies, but may exclude~~  
1433 ~~such coverage using a notice of coverage change.~~

1434 Section 2. Subsection (4) of section 627.3511, Florida  
1435 Statutes, is amended to read:

1436 627.3511 Depopulation of Citizens Property Insurance  
1437 Corporation.—

1438 (4) AGENT BONUS.—If ~~When~~ the corporation enters into a  
1439 contractual agreement for a take-out plan that provides a bonus  
1440 to the insurer, the producing agent of record of the corporation  
1441 policy is entitled to retain any unearned commission on such  
1442 policy, and the insurer shall ~~either~~:

1443 (a) Pay to the producing agent ~~of record of the association~~  
1444 ~~policy~~, for the first year, an amount that is the greater of the  
1445 insurer's usual and customary commission for the type of policy  
1446 written or a fee equal to the usual and customary commission of  
1447 the corporation; or

1448 (b) Offer to allow the producing agent ~~of record of the~~  
1449 ~~corporation policy~~ to continue servicing the policy for at least  
1450 ~~a period of not less than 1 year~~ and offer to pay the agent the

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1451 greater of the insurer's or the corporation's usual and  
1452 customary commission for the type of policy written.

1453  
1454 If the producing agent is unwilling or unable to accept  
1455 appointment, the new insurer shall pay the agent in accordance  
1456 with paragraph (a). The requirement ~~of this subsection~~ that the  
1457 producing agent of record is entitled to retain the unearned  
1458 commission on an association policy does not apply to a policy  
1459 for which coverage has been provided in the association for 30  
1460 days or less ~~or for which a cancellation notice has been issued~~  
1461 ~~pursuant to s. 627.351(6)(c)10. during the first 30 days of~~  
1462 ~~coverage.~~

1463 Section 3. Subsection (1) of section 627.712, Florida  
1464 Statutes, is amended to read:

1465 627.712 Residential windstorm coverage required;  
1466 availability of exclusions for windstorm or contents.—

1467 (1) An insurer issuing a residential property insurance  
1468 policy must provide windstorm coverage. Except as provided in  
1469 paragraph (2)(c), this section does not apply ~~with respect~~ to  
1470 risks that are eligible for wind-only coverage from Citizens  
1471 Property Insurance Corporation under s. 627.351(6), and ~~with~~  
1472 ~~respect~~ to risks that are not eligible for coverage from  
1473 Citizens Property Insurance Corporation under s. 627.351(6)(a)3.  
1474 or 4. 5. A risk ineligible for ~~Citizens~~ coverage under s.  
1475 627.351(6)(a)3. or 4. 5. is exempt from the requirements of this  
1476 section only if the risk is located within the boundaries of the  
1477 high-risk account of the corporation.

1478 Section 4. This act shall take effect upon becoming a law.