

By the Committee on Banking and Insurance; and Senator Hays

597-03336-11

20111714c1

1                                   A bill to be entitled  
2           An act relating to the Citizens Property Insurance  
3           Corporation; amending s. 627.0655, F.S.; discontinuing  
4           policy discounts relating to the Citizens Property  
5           Insurance Corporation after a certain date; amending  
6           s. 627.351, F.S.; revising legislative intent;  
7           deleting obsolete provisions relating to the  
8           corporation's plan of operation; directing the  
9           corporation to provide coverage to certain excluded  
10          residential structures but at rates deemed appropriate  
11          by the corporation; providing that certain residential  
12          structures are not eligible for coverage by the  
13          corporation after a certain date; requiring policies  
14          issued by the corporation to include a provision that  
15          prohibits policyholders from engaging the services of  
16          a public adjuster until after the corporation has  
17          tendered an offer; limiting an adjuster's fee for a  
18          claim against the corporation; specifying the  
19          percentage amount of emergency assessments; revising  
20          provisions relating to policyholder surcharges;  
21          prohibiting the corporation from levying certain  
22          assessments with respect to a year's deficit until the  
23          corporation has first levied a specified surcharge;  
24          requiring the corporation to commission a consultant  
25          to prepare a report on outsourcing various functions  
26          and submit such report to the Financial Services  
27          Commission by a certain date; revising provisions  
28          relating to wind coverage; prohibiting the corporation  
29          from accepting applications for commercial

597-03336-11

20111714c1

30 nonresidential risks; requiring the policyholders to  
31 sign a statement acknowledging that they may be  
32 assessed surcharges to cover corporate deficits;  
33 providing that policies do not include coverage for  
34 screen enclosures or any structure detached from the  
35 house; providing that the corporation does not cover  
36 specified personal property; limiting coverage for  
37 damage from sinkholes after a certain date and  
38 providing that the corporation must require repair of  
39 the property as a condition of any payment; requiring  
40 members of the board of governors to abstain from  
41 voting on issues on which they have a personal  
42 interest; requiring such members to disclose the  
43 nature of their interest as a public record; providing  
44 that the corporation operates as a residual market  
45 mechanism; revising provisions relating to corporation  
46 rates; providing that eligible surplus lines insurers  
47 may participate in take-out programs under certain  
48 conditions; clarifying that the corporation is immune  
49 from certain liabilities; revising requirements  
50 relating to confidential records released by an  
51 insurer; deleting a requirement for an annual report  
52 to the Legislature on losses attributable to wind-only  
53 coverages; requiring owners of properties in Special  
54 Flood Hazard Areas to maintain a separate flood  
55 insurance policy after a certain date; providing  
56 exceptions; amending s. 627.3511, F.S.; conforming a  
57 cross-reference; providing an effective date.

58

597-03336-11

20111714c1

59 Be It Enacted by the Legislature of the State of Florida:

60  
61 Section 1. Section 627.0655, Florida Statutes, is amended  
62 to read:

63 627.0655 Policyholder ~~loss or expense-related~~ premium  
64 discounts.—An insurer or person authorized to engage in the  
65 business of insurance in this state may include a discount in  
66 the premium charged an insured for any policy, contract, or  
67 certificate of insurance if, ~~a discount based on the fact that~~  
68 another policy, contract, or certificate of any type has been  
69 purchased by the insured:

70 (1) From the same insurer or insurer group;

71 (2) For policies issued or renewed before January 1, 2013,  
72 from the Citizens Property Insurance Corporation created under  
73 s. 627.351(6) if the same insurance agent is servicing both  
74 policies; or

75 (3) For policies issued or renewed before January 1, 2013,  
76 from an insurer that has removed the policy from the Citizens  
77 Property Insurance Corporation if the same insurance agent is  
78 servicing both policies.

79 Section 2. Paragraphs (a), (b), (c), (d), (n), (o), (q),  
80 (s), (w), (x), (y), (aa), and (ee) of subsection (6) of section  
81 627.351, Florida Statutes, are amended to read:

82 627.351 Insurance risk apportionment plans.—

83 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

84 (a) ~~It is~~ The public purpose of this subsection is to  
85 ensure that there is the existence of an orderly market for  
86 property insurance for residents ~~Floridians~~ and ~~Florida~~  
87 businesses of this state.

597-03336-11

20111714c1

88       1. The Legislature finds that actual and threatened  
89 catastrophic losses to property from hurricanes in this state  
90 have caused insurers to be unwilling or unable to provide  
91 property insurance coverage to the extent sought and needed. The  
92 Legislature declares that it is in the public interest and  
93 serves a public purpose that property in this state be  
94 adequately insured in order to facilitate the remediation,  
95 reconstruction, and replacement of damaged or destroyed  
96 property. Such efforts are necessary in order to avoid or reduce  
97 negative effects to the public health, safety, and welfare; the  
98 economy of the state; and the revenues of state and local  
99 governments. It is necessary, therefore, to provide property  
100 insurance to applicants who are entitled to procure insurance  
101 through the voluntary market but who, in good faith, are unable  
102 to do so. The Legislature finds that private insurers are  
103 unwilling or unable to provide affordable property insurance  
104 coverage in this state to the extent sought and needed. The  
105 absence of affordable property insurance threatens the public  
106 health, safety, and welfare and likewise threatens the economic  
107 health of the state. The state therefore has a compelling public  
108 interest and a public purpose to assist in assuring that  
109 property in the state is insured and that it is insured at  
110 affordable rates so as to facilitate the remediation,  
111 reconstruction, and replacement of damaged or destroyed property  
112 in order to reduce or avoid the negative effects otherwise  
113 resulting to the public health, safety, and welfare, to the  
114 economy of the state, and to the revenues of the state and local  
115 governments which are needed to provide for the public welfare.  
116 It is necessary, therefore, to provide affordable property

597-03336-11

20111714c1

117 ~~insurance to applicants who are in good faith entitled to~~  
118 ~~procure insurance through the voluntary market but are unable to~~  
119 ~~do so. The Legislature intends, therefore, by this subsection~~  
120 ~~that affordable property insurance be provided and that it~~  
121 ~~continue to be provided, as long as necessary, through Citizens~~  
122 ~~Property Insurance Corporation, a government entity that is an~~  
123 ~~integral part of the state, and that is not a private insurance~~  
124 ~~company. To that end, Citizens Property Insurance Corporation~~  
125 ~~shall strive to increase the availability of affordable property~~  
126 ~~insurance in this state, while achieving efficiencies and~~  
127 ~~economics, and while providing service to policyholders,~~  
128 ~~applicants, and agents which is no less than the quality~~  
129 ~~generally provided in the voluntary market, for the achievement~~  
130 ~~of the foregoing public purposes. Because it is essential for~~  
131 ~~this government entity to have the maximum financial resources~~  
132 ~~to pay claims following a catastrophic hurricane, it is the~~  
133 ~~intent of the Legislature that Citizens Property Insurance~~  
134 ~~Corporation continue to be an integral part of the state and~~  
135 ~~that the income of the corporation be exempt from federal income~~  
136 ~~taxation and that interest on the debt obligations issued by the~~  
137 ~~corporation be exempt from federal income taxation.~~

138 a. It is also the intent of the Legislature that  
139 policyholders, applicants, and agents of the corporation receive  
140 service and treatment of the highest possible level and never  
141 less than that generally provided in the voluntary market. The  
142 corporation must be held to service standards no less than those  
143 applied to insurers in the voluntary market by the office with  
144 respect to responsiveness, timeliness, customer courtesy, and  
145 overall dealings with policyholders, applicants, or agents of

597-03336-11

20111714c1

146 the corporation. It is also the intent of the Legislature that  
147 the corporation operate efficiently and economically.

148 b. Because it is essential that the corporation have the  
149 maximum financial resources necessary to pay claims following a  
150 catastrophic hurricane, the Legislature also intends that the  
151 income of the corporation and interest on the debt obligations  
152 issued by the corporation be exempt from federal income  
153 taxation.

154 2. The Residential Property and Casualty Joint Underwriting  
155 Association originally created by this statute shall be known~~7~~  
156 ~~as of July 1, 2002,~~ as the Citizens Property Insurance  
157 Corporation. The corporation shall provide insurance for  
158 residential and commercial property, for applicants who are ~~in~~  
159 ~~good faith~~ entitled, but, in good faith, are unable~~7~~ to procure  
160 insurance through the voluntary market. The corporation shall  
161 operate pursuant to a plan of operation approved by order of the  
162 Financial Services Commission. The plan is subject to continuous  
163 review by the commission. The commission may, by order, withdraw  
164 approval of all or part of a plan if the commission determines  
165 that conditions have changed since approval was granted and that  
166 the purposes of the plan require changes in the plan. ~~The~~  
167 ~~corporation shall continue to operate pursuant to the plan of~~  
168 ~~operation approved by the Office of Insurance Regulation until~~  
169 ~~October 1, 2006.~~ For the purposes of this subsection,  
170 residential coverage includes both personal lines residential  
171 coverage, which consists of the type of coverage provided by  
172 homeowner's, mobile home owner's, dwelling, tenant's,  
173 condominium unit owner's, and similar policies;~~7~~ and commercial  
174 lines residential coverage, which consists of the type of

597-03336-11

20111714c1

175 coverage provided by condominium association, apartment  
176 building, and similar policies.

177 3. With respect to coverage for personal lines residential  
178 structures:

179 a. Effective January 1, 2009, a ~~personal lines residential~~  
180 structure that has a dwelling replacement cost of \$2 million or  
181 more, or a single condominium unit that has a combined dwelling  
182 and contents ~~content~~ replacement cost of \$2 million or more is  
183 not eligible for coverage by the corporation. Such dwellings  
184 insured by the corporation on December 31, 2008, may continue to  
185 be covered by the corporation until the end of the policy term.  
186 However, such dwellings ~~that are insured by the corporation and~~  
187 ~~become ineligible for coverage due to the provisions of this~~  
188 ~~subparagraph~~ may reapply and obtain coverage if the property  
189 owner provides the corporation with a sworn affidavit from one  
190 or more insurance agents, on a form provided by the corporation,  
191 stating that the agents have made their best efforts to obtain  
192 coverage and that the property has been rejected for coverage by  
193 at least one authorized insurer and at least three surplus lines  
194 insurers. If such conditions are met, the dwelling may be  
195 insured by the corporation for up to 3 years, after which time  
196 the dwelling is ineligible for coverage. ~~The office shall~~  
197 ~~approve the method used by the corporation for valuing the~~  
198 ~~dwelling replacement cost for the purposes of this subparagraph.~~  
199 ~~If a policyholder is insured by the corporation prior to being~~  
200 ~~determined to be ineligible pursuant to this subparagraph and~~  
201 ~~such policyholder files a lawsuit challenging the determination,~~  
202 ~~the policyholder may remain insured by the corporation until the~~  
203 ~~conclusion of the litigation.~~

597-03336-11

20111714c1

204 b. Effective January 1, 2012, a structure that has a  
205 dwelling replacement cost of \$1 million or more, or a single  
206 condominium unit that has a combined dwelling and contents  
207 replacement cost of \$1 million or more is not eligible for  
208 coverage by the corporation. Such dwellings insured by the  
209 corporation on December 31, 2011, may continue to be covered by  
210 the corporation only until the end of the policy term.

211 c. Effective January 1, 2014, a structure insured in the  
212 personal lines account of the corporation that has a dwelling  
213 replacement cost of \$750,000 or more, or a single condominium  
214 unit that has a combined dwelling and contents replacement cost  
215 of \$750,000 or more is not eligible for coverage by the  
216 corporation. Such dwellings insured by the corporation on  
217 December 31, 2013, may continue to be covered by the corporation  
218 until the end of the policy term.

219 d. Effective January 1, 2016, a structure insured in the  
220 personal lines account of the corporation that has a dwelling  
221 replacement cost of \$500,000 or more, or a single condominium  
222 unit that has a combined dwelling and contents replacement cost  
223 of \$500,000 or more is not eligible for coverage by the  
224 corporation. Such dwellings insured by the corporation on  
225 December 31, 2015, may continue to be covered by the corporation  
226 until the end of the policy term.

227 4. Any structure for which a permit for construction is  
228 obtained on or after June 1, 2011, seaward of the coastal  
229 construction control line established pursuant to s. 161.053, is  
230 not eligible for coverage by the corporation.

231 ~~4. It is the intent of the Legislature that policyholders,~~  
232 ~~applicants, and agents of the corporation receive service and~~

597-03336-11

20111714c1

233 ~~treatment of the highest possible level but never less than that~~  
234 ~~generally provided in the voluntary market. It also is intended~~  
235 ~~that the corporation be held to service standards no less than~~  
236 ~~those applied to insurers in the voluntary market by the office~~  
237 ~~with respect to responsiveness, timeliness, customer courtesy,~~  
238 ~~and overall dealings with policyholders, applicants, or agents~~  
239 ~~of the corporation.~~

240       5. Effective October 1, 2011 ~~January 1, 2009~~, a personal  
241 lines residential structure that is located in the "wind-borne  
242 debris region," as defined in s. 1609.2, International Building  
243 Code (2006), and that has an insured value on the structure of  
244 \$750,000 or more is ~~not~~ eligible for coverage by the  
245 corporation. However, unless the structure has opening  
246 protections as required under the Florida Building Code for a  
247 newly constructed residential structure in that area, the  
248 corporation may charge a surcharge that it deems appropriate for  
249 such structures, notwithstanding any restrictions on rates  
250 provided in this subsection or in s. 627.062. A residential  
251 structure shall be deemed to comply with ~~the requirements of~~  
252 this subparagraph if it has shutters or opening protections on  
253 all openings and if such opening protections complied with the  
254 Florida Building Code at the time they were installed.

255       6. In recognition of the corporation's status as a  
256 government entity, policies issued by the corporation must  
257 include a provision stating that as a condition of coverage with  
258 the corporation, policyholders may not engage the services of a  
259 public adjuster to represent the policyholder with respect to  
260 any claim filed under a policy issued by the corporation until  
261 after the corporation has tendered an offer with respect to such

597-03336-11

20111714c1

262 claim. For any claim filed under any policy of the corporation,  
263 a public adjuster may not request payment or be paid, on a  
264 contingency basis or based in any way, directly or indirectly,  
265 on a percentage of the claim amount, and may be paid only a  
266 reasonable hourly fee based on the actual hours of work  
267 performed, subject to a maximum of 5 percent of the additional  
268 amount actually paid over the amount which was originally  
269 offered by the corporation for any one claim.

270 (b)1. All insurers authorized to write one or more subject  
271 lines of business in this state are subject to assessment by the  
272 corporation and, for the purposes of this subsection, are  
273 referred to collectively as "assessable insurers." Insurers  
274 writing one or more subject lines of business in this state  
275 pursuant to part VIII of chapter 626 are not assessable  
276 insurers, but insureds who procure one or more subject lines of  
277 business in this state pursuant to part VIII of chapter 626 are  
278 subject to assessment by the corporation and are referred to  
279 collectively as "assessable insureds." An ~~authorized~~ insurer's  
280 assessment liability begins ~~shall begin~~ on the first day of the  
281 calendar year following the year in which the insurer was issued  
282 a certificate of authority to transact insurance for subject  
283 lines of business in this state and terminates ~~shall terminate~~ 1  
284 year after the end of the first calendar year during which the  
285 insurer no longer holds a certificate of authority to transact  
286 insurance for subject lines of business in this state.

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

290 (I) A personal lines account for personal residential

597-03336-11

20111714c1

291 policies issued by the corporation, or issued by the Residential  
292 Property and Casualty Joint Underwriting Association and renewed  
293 by the corporation, which provides basic ~~that provide~~  
294 ~~comprehensive,~~ multiperil coverage on risks that are not located  
295 in areas eligible for coverage by ~~in~~ the Florida Windstorm  
296 Underwriting Association as those areas were defined on January  
297 1, 2002, and for ~~such~~ policies that do not provide coverage for  
298 the peril of wind on risks that are located in such areas;

299 (II) A commercial lines account for commercial residential  
300 and commercial nonresidential policies issued by the  
301 corporation, or issued by the Residential Property and Casualty  
302 Joint Underwriting Association and renewed by the corporation,  
303 which provides ~~that provide~~ coverage for basic property perils  
304 on risks that are not located in areas eligible for coverage by  
305 ~~in~~ the Florida Windstorm Underwriting Association as those areas  
306 were defined on January 1, 2002, and for ~~such~~ policies that do  
307 not provide coverage for the peril of wind on risks that are  
308 located in such areas; and

309 (III) A high-risk account for personal residential policies  
310 and commercial residential and commercial nonresidential  
311 property policies issued by the corporation or transferred to  
312 the corporation, which provides ~~that provide~~ coverage for the  
313 peril of wind on risks that are located in areas eligible for  
314 coverage by ~~in~~ the Florida Windstorm Underwriting Association as  
315 those areas were defined on January 1, 2002. The corporation may  
316 offer policies that provide multiperil coverage and the  
317 corporation shall continue to offer policies that provide  
318 coverage only for the peril of wind for risks located in areas  
319 eligible for coverage in the high-risk account. In issuing

597-03336-11

20111714c1

320 multiperil coverage, the corporation may use its approved policy  
321 forms and rates for the personal lines account. An applicant or  
322 insured who is eligible to purchase a multiperil policy from the  
323 corporation may purchase a multiperil policy from an authorized  
324 insurer without prejudice to the applicant's or insured's  
325 eligibility to prospectively purchase a policy that provides  
326 coverage only for the peril of wind from the corporation. An  
327 applicant or insured who is eligible for a corporation policy  
328 that provides coverage only for the peril of wind may elect to  
329 purchase or retain such policy and also purchase or retain  
330 coverage excluding wind from an authorized insurer without  
331 prejudice to the applicant's or insured's eligibility to  
332 prospectively purchase a policy that provides multiperil  
333 coverage from the corporation. ~~It is the goal of the Legislature~~  
334 ~~that there would be an overall average savings of 10 percent or~~  
335 ~~more for a policyholder who currently has a wind-only policy~~  
336 ~~with the corporation, and an ex-wind policy with a voluntary~~  
337 ~~insurer or the corporation, and who then obtains a multiperil~~  
338 ~~policy from the corporation.~~ It is the intent of the Legislature  
339 that the offer of multiperil coverage in the high-risk account  
340 be made and implemented in a manner that does not adversely  
341 affect the tax-exempt status of the corporation or  
342 creditworthiness of or security for currently outstanding  
343 financing obligations or credit facilities of the high-risk  
344 account, the personal lines account, or the commercial lines  
345 account. ~~The high-risk account must also include quota share~~  
346 ~~primary insurance under subparagraph (c)2.~~ The area eligible for  
347 coverage under the high-risk account also includes the area  
348 within Port Canaveral, which is bordered on the south by the

597-03336-11

20111714c1

349 City of Cape Canaveral, bordered on the west by the Banana  
350 River, and bordered on the north by Federal Government property.

351 b. The three separate accounts must be maintained as long  
352 as financing obligations entered into by the Florida Windstorm  
353 Underwriting Association or Residential Property and Casualty  
354 Joint Underwriting Association are outstanding, in accordance  
355 with the terms of the corresponding financing documents. If ~~When~~  
356 the financing obligations are no longer outstanding, ~~in~~  
357 ~~accordance with the terms of the corresponding financing~~  
358 ~~documents,~~ the corporation may use a single account for all  
359 revenues, assets, liabilities, losses, and expenses of the  
360 corporation. Consistent with ~~the requirement of this~~  
361 subparagraph and prudent investment policies that minimize the  
362 cost of carrying debt, the board shall exercise its best efforts  
363 to retire existing debt or ~~to~~ obtain the approval of necessary  
364 parties to amend the terms of existing debt, so as to structure  
365 the most efficient plan to consolidate the three separate  
366 accounts into a single account.

367 c. Creditors of the Residential Property and Casualty Joint  
368 Underwriting Association and of the accounts specified in sub-  
369 sub-subparagraphs a.(I) and (II) may have a claim against, and  
370 recourse to, those ~~the~~ accounts ~~referred to in sub-sub-~~  
371 ~~subparagraphs a.(I) and (II) and shall have~~ no claim against, or  
372 recourse to, the account referred to in sub-sub-subparagraph  
373 a.(III). Creditors of the Florida Windstorm Underwriting  
374 Association ~~shall~~ have a claim against, and recourse to, the  
375 account referred to in sub-sub-subparagraph a.(III) and ~~shall~~  
376 ~~have~~ no claim against, or recourse to, the accounts referred to  
377 in sub-sub-subparagraphs a.(I) and (II).

597-03336-11

20111714c1

378 d. Revenues, assets, liabilities, losses, and expenses not  
379 attributable to particular accounts shall be prorated among the  
380 accounts.

381 e. The Legislature finds that the revenues of the  
382 corporation are revenues that are necessary to meet the  
383 requirements set forth in documents authorizing the issuance of  
384 bonds under this subsection.

385 f. No part of the income of the corporation may inure to  
386 the benefit of any private person.

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

388 a. After accounting for the ~~Citizens~~ policyholder surcharge  
389 imposed under sub-subparagraph i., if ~~when~~ the remaining  
390 projected deficit incurred in a particular calendar year is not  
391 greater than 6 percent of the aggregate statewide direct written  
392 premium for the subject lines of business for the prior calendar  
393 year, the entire deficit shall be recovered through regular  
394 assessments of assessable insurers under paragraph (q) and  
395 assessable insureds.

396 b. After accounting for the Citizens policyholder surcharge  
397 imposed under sub-subparagraph i., when the remaining projected  
398 deficit incurred in a particular calendar year exceeds 6 percent  
399 of the aggregate statewide direct written premium for the  
400 subject lines of business for the prior calendar year, the  
401 corporation shall levy regular assessments on assessable  
402 insurers under paragraph (q) and on assessable insureds in an  
403 amount equal to the greater of 6 percent of the deficit or 6  
404 percent of the aggregate statewide direct written premium for  
405 the subject lines of business for the prior calendar year. Any  
406 remaining deficit shall be recovered through emergency

597-03336-11

20111714c1

407 assessments under sub-subparagraph d.

408 c. Each assessable insurer's share of the amount being  
409 assessed under sub-subparagraph a. or sub-subparagraph b. must  
410 ~~shall~~ be in the proportion that the assessable insurer's direct  
411 written premium for the subject lines of business for the year  
412 preceding the assessment bears to the aggregate statewide direct  
413 written premium for the subject lines of business for that year.  
414 The applicable assessment percentage ~~applicable to each~~  
415 ~~assessable insured~~ is the ratio of the amount being assessed  
416 under sub-subparagraph a. or sub-subparagraph b. to the  
417 aggregate statewide direct written premium for the subject lines  
418 of business for the prior year. Assessments levied by the  
419 corporation on assessable insurers under sub-subparagraphs a.  
420 and b. must ~~shall~~ be paid as required by the corporation's plan  
421 of operation and paragraph (q). Assessments levied by the  
422 corporation on assessable insureds under sub-subparagraphs a.  
423 and b. shall be collected by the surplus lines agent at the time  
424 the surplus lines agent collects the surplus lines tax required  
425 by s. 626.932, and ~~shall be~~ paid to the Florida Surplus Lines  
426 Service Office at the time the surplus lines agent pays the  
427 surplus lines tax to that ~~the Florida Surplus Lines Service~~  
428 office. Upon receipt of regular assessments from surplus lines  
429 agents, the Florida Surplus Lines Service Office shall transfer  
430 the assessments directly to the corporation as determined by the  
431 corporation.

432 d. Upon a determination by the board of governors that a  
433 deficit in an account exceeds the amount that will be recovered  
434 through regular assessments under sub-subparagraph a. or sub-  
435 subparagraph b., plus the amount that is expected to be

597-03336-11

20111714c1

436 recovered through surcharges under sub-subparagraph i., ~~as to~~  
437 ~~the remaining projected deficit~~ the board ~~shall levy~~, after  
438 verification by the office, shall levy emergency assessments,  
439 for as many years as necessary to cover the deficits, to be  
440 collected by assessable insurers and the corporation and  
441 collected from assessable insureds upon issuance or renewal of  
442 policies for subject lines of business, excluding National Flood  
443 Insurance policies. The amount of the emergency assessment  
444 collected in a particular year must ~~shall~~ be a uniform  
445 percentage of that year's direct written premium for subject  
446 lines of business ~~and all accounts of the corporation~~, excluding  
447 National Flood Insurance Program policy premiums, as annually  
448 determined by the board and verified by the office. For all  
449 accounts of the corporation, the amount of the emergency  
450 assessment levied in a particular year must be a uniform  
451 percentage equal to 1 1/2 times the uniform percentage emergency  
452 assessment levied on subject lines of business. The office shall  
453 verify the arithmetic calculations involved in the board's  
454 determination within 30 days after receipt of the information on  
455 which the determination was based. Notwithstanding any other  
456 provision of law, the corporation and each assessable insurer  
457 that writes subject lines of business shall collect emergency  
458 assessments from its policyholders without such obligation being  
459 affected by any credit, limitation, exemption, or deferment.  
460 Emergency assessments levied by the corporation on assessable  
461 insureds shall be collected by the surplus lines agent at the  
462 time the surplus lines agent collects the surplus lines tax  
463 required by s. 626.932 and ~~shall be~~ paid to the Florida Surplus  
464 Lines Service Office at the time the surplus lines agent pays

597-03336-11

20111714c1

465 the surplus lines tax to that ~~the Florida Surplus Lines Service~~  
466 office. The emergency assessments ~~so~~ collected shall be  
467 transferred directly to the corporation on a periodic basis as  
468 determined by the corporation and ~~shall be~~ held by the  
469 corporation solely in the applicable account. The aggregate  
470 amount of emergency assessments levied for an account under this  
471 sub-subparagraph in any calendar year may, ~~at the discretion of~~  
472 ~~the board of governors,~~ be less than but may not exceed the  
473 greater of 10 percent of the amount needed to cover the deficit,  
474 plus interest, fees, commissions, required reserves, and other  
475 costs associated with financing ~~of~~ the original deficit, or 10  
476 percent of the aggregate statewide direct written premium for  
477 subject lines of business and 15 percent for all accounts of the  
478 corporation for the prior year, plus interest, fees,  
479 commissions, required reserves, and other costs associated with  
480 financing the deficit.

481 e. The corporation may pledge the proceeds of assessments,  
482 projected recoveries from the Florida Hurricane Catastrophe  
483 Fund, other insurance and reinsurance recoverables, policyholder  
484 surcharges and other surcharges, and other funds available to  
485 the corporation as the source of revenue for and to secure bonds  
486 issued under paragraph (q), bonds or other indebtedness issued  
487 under subparagraph (c) 2.3, or lines of credit or other  
488 financing mechanisms issued or created under this subsection, or  
489 to retire any other debt incurred as a result of deficits or  
490 events giving rise to deficits, or in any other way that the  
491 board determines will efficiently recover such deficits. The  
492 purpose of the lines of credit or other financing mechanisms is  
493 to provide additional resources to assist the corporation in

597-03336-11

20111714c1

494 covering claims and expenses attributable to a catastrophe. As  
495 used in this subsection, the term "assessments" includes regular  
496 assessments under sub-subparagraph a., sub-subparagraph b., or  
497 subparagraph (q)1. and emergency assessments under sub-  
498 subparagraph d. Emergency assessments collected under sub-  
499 subparagraph d. are not part of an insurer's rates, are not  
500 premium, and are not subject to premium tax, fees, or  
501 commissions; however, failure to pay the emergency assessment  
502 shall be treated as failure to pay premium. The emergency  
503 assessments under sub-subparagraph d. shall continue as long as  
504 any bonds issued or other indebtedness incurred with respect to  
505 a deficit for which the assessment was imposed remain  
506 outstanding, unless adequate provision has been made for the  
507 payment of such bonds or other indebtedness pursuant to the  
508 documents governing such bonds or ~~other~~ indebtedness.

509 f. As used in this subsection for purposes of any deficit  
510 incurred on or after January 25, 2007, the term "subject lines  
511 of business" means insurance written by assessable insurers or  
512 procured by assessable insureds for all property and casualty  
513 lines of business in this state, but not including workers'  
514 compensation or medical malpractice. As used in this ~~the~~ sub-  
515 subparagraph, the term "property and casualty lines of business"  
516 includes all lines of business identified on Form 2, Exhibit of  
517 Premiums and Losses, in the annual statement required of  
518 authorized insurers under ~~by~~ s. 624.424 and any rule adopted  
519 under this section, except for those lines identified as  
520 accident and health insurance and except for policies written  
521 under the National Flood Insurance Program or the Federal Crop  
522 Insurance Program. For purposes of this sub-subparagraph, the

597-03336-11

20111714c1

523 term "workers' compensation" includes both workers' compensation  
524 insurance and excess workers' compensation insurance.

525 g. The Florida Surplus Lines Service Office shall determine  
526 annually the aggregate statewide written premium in subject  
527 lines of business procured by assessable insureds and ~~shall~~  
528 report that information to the corporation in a form and at a  
529 time the corporation specifies to ensure that the corporation  
530 can meet the requirements of this subsection and the  
531 corporation's financing obligations.

532 h. The Florida Surplus Lines Service Office shall verify  
533 the proper application by surplus lines agents of assessment  
534 percentages for regular assessments and emergency assessments  
535 levied under this subparagraph on assessable insureds and ~~shall~~  
536 assist the corporation in ensuring the accurate, timely  
537 collection and payment of assessments by surplus lines agents as  
538 required by the corporation.

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

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

547 (II) It is the intent of the Legislature that the  
548 policyholder's liability for the surcharge attach on the date of  
549 the order levying the surcharge. The surcharge is payable upon  
550 cancellation or termination of the policy, upon renewal of the  
551 policy, or upon issuance of a new policy by the corporation

597-03336-11

20111714c1

552 within the first 12 months after the date of the levy or the  
553 period of time necessary to fully collect the surcharge amount.

554 (III) The corporation may not levy any regular assessments  
555 under paragraph (q) pursuant to sub-subparagraph a. or sub-  
556 subparagraph b. with respect to a particular year's deficit  
557 until the corporation has first levied a surcharge under this  
558 sub-subparagraph in the full amount authorized by this sub-  
559 subparagraph.

560 (IV) The surcharge is ~~Citizens policyholder surcharges~~  
561 ~~under this sub-subparagraph are~~ not considered premium and is  
562 ~~are~~ not subject to commissions, fees, or premium taxes. However,  
563 failure to pay the surcharge ~~such surcharges~~ shall be treated as  
564 failure to pay premium.

565 j. If the amount of any assessments or surcharges collected  
566 from corporation policyholders, assessable insurers or their  
567 policyholders, or assessable insureds exceeds the amount of the  
568 deficits, such excess amounts shall be remitted to and retained  
569 by the corporation in a reserve to be used by the corporation,  
570 as determined by the board of governors and approved by the  
571 office, to pay claims or reduce any past, present, or future  
572 plan-year deficits or to reduce outstanding debt.

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

574 1. Must provide ~~for adoption of~~ residential property and  
575 casualty insurance policy forms and commercial residential and  
576 nonresidential property insurance forms, which ~~forms~~ must be  
577 approved by the office before ~~prior to~~ use. The corporation  
578 shall adopt and offer only the following policy forms:

579 a. Standard personal lines policy forms that are similar  
580 ~~comprehensive multiperil policies providing full coverage of a~~

597-03336-11

20111714c1

581 ~~residential property equivalent~~ to the coverage provided in the  
582 private insurance market under an HO-3, HO-4, or HO-6 policy.  
583 The corporation shall cease to offer or renew HO-3 policy forms  
584 on December 31, 2012.

585 b. Basic personal lines policy forms that are policies  
586 similar to an HO-8 policy or a dwelling fire policy that provide  
587 coverage meeting the requirements of the secondary mortgage  
588 market, but which ~~coverage~~ is more limited than the coverage  
589 under a standard policy.

590 c. Commercial lines residential and nonresidential policy  
591 forms that are generally similar to the basic perils of full  
592 coverage obtainable for commercial residential structures and  
593 commercial nonresidential structures in the admitted voluntary  
594 market.

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

600 e. Commercial lines nonresidential property insurance forms  
601 that cover the peril of wind only. The forms are applicable only  
602 to nonresidential properties located in areas eligible for  
603 coverage under the high-risk account referred to in sub-  
604 subparagraph (b)2.a.

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

608 ~~2.a. Must provide that the corporation adopt a program in~~  
609 ~~which the corporation and authorized insurers enter into quota~~

597-03336-11

20111714c1

610 ~~share primary insurance agreements for hurricane coverage, as~~  
611 ~~defined in s. 627.4025(2)(a), for eligible risks, and adopt~~  
612 ~~property insurance forms for eligible risks which cover the~~  
613 ~~peril of wind only. As used in this subsection, the term:~~

614 ~~(I) "Quota share primary insurance" means an arrangement in~~  
615 ~~which the primary hurricane coverage of an eligible risk is~~  
616 ~~provided in specified percentages by the corporation and an~~  
617 ~~authorized insurer. The corporation and authorized insurer are~~  
618 ~~each solely responsible for a specified percentage of hurricane~~  
619 ~~coverage of an eligible risk as set forth in a quota share~~  
620 ~~primary insurance agreement between the corporation and an~~  
621 ~~authorized insurer and the insurance contract. The~~  
622 ~~responsibility of the corporation or authorized insurer to pay~~  
623 ~~its specified percentage of hurricane losses of an eligible~~  
624 ~~risk, as set forth in the quota share primary insurance~~  
625 ~~agreement, may not be altered by the inability of the other~~  
626 ~~party to the agreement to pay its specified percentage of~~  
627 ~~hurricane losses. Eligible risks that are provided hurricane~~  
628 ~~coverage through a quota share primary insurance arrangement~~  
629 ~~must be provided policy forms that set forth the obligations of~~  
630 ~~the corporation and authorized insurer under the arrangement,~~  
631 ~~clearly specify the percentages of quota share primary insurance~~  
632 ~~provided by the corporation and authorized insurer, and~~  
633 ~~conspicuously and clearly state that neither the authorized~~  
634 ~~insurer nor the corporation may be held responsible beyond its~~  
635 ~~specified percentage of coverage of hurricane losses.~~

636 ~~(II) "Eligible risks" means personal lines residential and~~  
637 ~~commercial lines residential risks that meet the underwriting~~  
638 ~~criteria of the corporation and are located in areas that were~~

597-03336-11

20111714c1

639 ~~eligible for coverage by the Florida Windstorm Underwriting~~  
640 ~~Association on January 1, 2002.~~

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

644 ~~e. If the corporation determines that additional coverage~~  
645 ~~levels are necessary to maximize participation in quota share~~  
646 ~~primary insurance agreements by authorized insurers, the~~  
647 ~~corporation may establish additional coverage levels. However,~~  
648 ~~the corporation's quota share primary insurance coverage level~~  
649 ~~may not exceed 90 percent.~~

650 ~~d. Any quota share primary insurance agreement entered into~~  
651 ~~between an authorized insurer and the corporation must provide~~  
652 ~~for a uniform specified percentage of coverage of hurricane~~  
653 ~~losses, by county or territory as set forth by the corporation~~  
654 ~~board, for all eligible risks of the authorized insurer covered~~  
655 ~~under the quota share primary insurance agreement.~~

656 ~~e. Any quota share primary insurance agreement entered into~~  
657 ~~between an authorized insurer and the corporation is subject to~~  
658 ~~review and approval by the office. However, such agreement shall~~  
659 ~~be authorized only as to insurance contracts entered into~~  
660 ~~between an authorized insurer and an insured who is already~~  
661 ~~insured by the corporation for wind coverage.~~

662 ~~f. For all eligible risks covered under quota share primary~~  
663 ~~insurance agreements, the exposure and coverage levels for both~~  
664 ~~the corporation and authorized insurers shall be reported by the~~  
665 ~~corporation to the Florida Hurricane Catastrophe Fund. For all~~  
666 ~~policies of eligible risks covered under quota share primary~~  
667 ~~insurance agreements, the corporation and the authorized insurer~~

597-03336-11

20111714c1

668 ~~shall maintain complete and accurate records for the purpose of~~  
669 ~~exposure and loss reimbursement audits as required by Florida~~  
670 ~~Hurricane Catastrophe Fund rules. The corporation and the~~  
671 ~~authorized insurer shall each maintain duplicate copies of~~  
672 ~~policy declaration pages and supporting claims documents.~~

673 ~~g. The corporation board shall establish in its plan of~~  
674 ~~operation standards for quota share agreements which ensure that~~  
675 ~~there is no discriminatory application among insurers as to the~~  
676 ~~terms of quota share agreements, pricing of quota share~~  
677 ~~agreements, incentive provisions if any, and consideration paid~~  
678 ~~for servicing policies or adjusting claims.~~

679 ~~h. The quota share primary insurance agreement between the~~  
680 ~~corporation and an authorized insurer must set forth the~~  
681 ~~specific terms under which coverage is provided, including, but~~  
682 ~~not limited to, the sale and servicing of policies issued under~~  
683 ~~the agreement by the insurance agent of the authorized insurer~~  
684 ~~producing the business, the reporting of information concerning~~  
685 ~~eligible risks, the payment of premium to the corporation, and~~  
686 ~~arrangements for the adjustment and payment of hurricane claims~~  
687 ~~incurred on eligible risks by the claims adjuster and personnel~~  
688 ~~of the authorized insurer. Entering into a quota sharing~~  
689 ~~insurance agreement between the corporation and an authorized~~  
690 ~~insurer shall be voluntary and at the discretion of the~~  
691 ~~authorized insurer.~~

692 ~~2.3. May provide that the corporation may employ or~~  
693 ~~otherwise contract with individuals or other entities to provide~~  
694 ~~administrative or professional services that may be appropriate~~  
695 ~~to effectuate the plan.~~

696 ~~a. The corporation may shall have the power to borrow~~

597-03336-11

20111714c1

697 funds, by issuing bonds or by incurring other indebtedness, and  
698 shall have other powers reasonably necessary to effectuate the  
699 requirements of this subsection, including, without limitation,  
700 the power to issue bonds and incur other indebtedness in order  
701 to refinance outstanding bonds or other indebtedness. The  
702 corporation may, ~~but is not required to,~~ seek judicial  
703 validation of its bonds or other indebtedness under chapter 75.  
704 The corporation may issue bonds or incur other indebtedness, or  
705 have bonds issued on its behalf by a unit of local government  
706 pursuant to subparagraph (q)2., in the absence of a hurricane or  
707 other weather-related event, upon a determination by the  
708 corporation, subject to approval by the office, that such action  
709 would enable it to efficiently meet the financial obligations of  
710 the corporation and that such financings are reasonably  
711 necessary to effectuate the requirements of this subsection. The  
712 corporation may ~~is authorized to~~ take all actions needed to  
713 facilitate tax-free status for ~~any~~ such bonds or indebtedness,  
714 including formation of trusts or other affiliated entities. The  
715 corporation may ~~shall have the authority to~~ pledge assessments,  
716 projected recoveries from the Florida Hurricane Catastrophe  
717 Fund, other reinsurance recoverables, market equalization and  
718 other surcharges, and other funds available to the corporation  
719 as security for bonds or other indebtedness. In recognition of  
720 s. 10, Art. I of the State Constitution, prohibiting the  
721 impairment of obligations of contracts, it is the intent of the  
722 Legislature that no action be taken whose purpose is to impair  
723 any bond indenture or financing agreement or any revenue source  
724 committed by contract to such bond or other indebtedness.

725 b. To ensure that the corporation is operating in an

597-03336-11

20111714c1

726 efficient and economic manner while providing quality service to  
727 policyholders, applicants, and agents, the board shall  
728 commission an independent third-party consultant having  
729 expertise in insurance company management or insurance company  
730 management consulting to prepare a report and make  
731 recommendations on the relative costs and benefits of  
732 outsourcing various policy issuance and service functions to  
733 private servicing carriers or entities performing similar  
734 functions in the private market for a fee, rather than  
735 performing such functions in-house. In making such  
736 recommendations, the consultant shall consider how other  
737 residual markets, both in this state and around the country,  
738 outsource appropriate functions or use servicing carriers to  
739 better match expenses with revenues that fluctuate based on a  
740 widely varying policy count. The report must be completed by  
741 February 1, 2012. Upon receiving the report, the board shall  
742 develop a plan to implement the report and submit the plan to  
743 the Financial Services Commission. The commission has 30 days  
744 after receiving the plan to review and make additions or  
745 corrections, if any. Upon the commission's approval of the plan,  
746 the board shall begin implementing the plan by January 1, 2013.

747 3.4.a. Must ~~require that the corporation~~ operate subject to  
748 the supervision and approval of a board of governors consisting  
749 of eight individuals who are residents of this state, from  
750 different geographical areas of this state.

751 a. The Governor, the Chief Financial Officer, the President  
752 of the Senate, and the Speaker of the House of Representatives  
753 shall each appoint two members of the board. At least one of the  
754 two members appointed by each appointing officer must have

597-03336-11

20111714c1

755 demonstrated expertise in insurance, and be within the scope of  
756 the exemption provided in s. 112.313(7) (b). The Chief Financial  
757 Officer shall designate one of the appointees as chair. All  
758 board members serve at the pleasure of the appointing officer.  
759 All members of the board ~~of governors~~ are subject to removal at  
760 will by the officers who appointed them. All board members,  
761 including the chair, must be appointed to serve for 3-year terms  
762 beginning annually on a date designated by the plan. However,  
763 for the first term beginning on or after July 1, 2009, each  
764 appointing officer shall appoint one member of the board for a  
765 2-year term and one member for a 3-year term. A ~~Any~~ board  
766 vacancy shall be filled for the unexpired term by the appointing  
767 officer. The Chief Financial Officer shall appoint a technical  
768 advisory group to provide information and advice to the board ~~of~~  
769 ~~governors~~ in connection with the board's duties under this  
770 subsection. The executive director and senior managers of the  
771 corporation shall be engaged by the board and serve at the  
772 pleasure of the board. Any executive director appointed on or  
773 after July 1, 2006, is subject to confirmation by the Senate.  
774 The executive director is responsible for employing other staff  
775 as the corporation may require, subject to review and  
776 concurrence by the board.

777 b. The board shall create a Market Accountability Advisory  
778 Committee to assist the corporation in developing awareness of  
779 its rates and its customer and agent service levels in  
780 relationship to the voluntary market insurers writing similar  
781 coverage, and to provide advice on issues regarding agent  
782 appointments and compensation.

783 (I) The members of the advisory committee shall consist of

597-03336-11

20111714c1

784 the following 11 persons, one of whom must be elected chair by  
785 the members of the committee: four representatives, one  
786 appointed by the Florida Association of Insurance Agents, one by  
787 the National Florida Association of Insurance and Financial  
788 Advisors-Florida Advisors, one by the Professional Insurance  
789 Agents of Florida, and one by the Latin American Association of  
790 Insurance Agencies; three representatives appointed by the  
791 insurers with the three highest voluntary market share of  
792 residential property insurance business in the state; one  
793 representative from the Office of Insurance Regulation; one  
794 consumer appointed by the board who is insured by the  
795 corporation at the time of appointment to the committee; one  
796 representative appointed by the Florida Association of Realtors;  
797 and one representative appointed by the Florida Bankers  
798 Association. All members shall be appointed to ~~must serve for~~ 3-  
799 year terms and may serve for consecutive terms.

800 (II) The committee shall report to the corporation at each  
801 board meeting on insurance market issues which may include rates  
802 and rate competition with the voluntary market; service,  
803 including policy issuance, claims processing, and general  
804 responsiveness to policyholders, applicants, and agents; and  
805 matters relating to depopulation, producer compensation, or  
806 agency agreements.

807 ~~4.5.~~ Must provide a procedure for determining the  
808 eligibility of a risk for coverage, as follows:

809 a. Subject to ~~the provisions of~~ s. 627.3517, with respect  
810 to personal lines residential risks, if the risk is offered  
811 coverage from an authorized insurer at the insurer's approved  
812 rate under ~~either~~ a standard policy including wind coverage or,

597-03336-11

20111714c1

813 if consistent with the insurer's underwriting rules as filed  
814 with the office, a basic policy including wind coverage, for a  
815 new application to the corporation for coverage, the risk is not  
816 eligible for any policy issued by the corporation ~~unless the~~  
817 ~~premium for coverage from the authorized insurer is more than 15~~  
818 ~~percent greater than the premium for comparable coverage from~~  
819 ~~the corporation.~~ If the risk is not able to obtain any such  
820 offer, the risk is eligible for either a standard policy  
821 including wind coverage or a basic policy including wind  
822 coverage issued by the corporation; however, if the risk could  
823 not be insured under a standard policy including wind coverage  
824 regardless of market conditions, the risk is ~~shall be~~ eligible  
825 for a basic policy including wind coverage unless rejected under  
826 subparagraph 9. ~~8.~~ Notwithstanding these limitations, an  
827 application for coverage having an effective date before January  
828 1, 2015, is eligible for coverage by the corporation if the  
829 premium for coverage from an authorized insurer exceeds the  
830 premium from the corporation by more than 25 percent. ~~However,~~  
831 ~~with regard to a policyholder of the corporation or a~~  
832 ~~policyholder removed from the corporation through an assumption~~  
833 ~~agreement until the end of the assumption period, the~~  
834 ~~policyholder remains eligible for coverage from the corporation~~  
835 ~~regardless of any offer of coverage from an authorized insurer~~  
836 ~~or surplus lines insurer.~~ The corporation shall determine the  
837 type of policy to be provided on the basis of objective  
838 standards specified in the underwriting manual and based on  
839 generally accepted underwriting practices.

840 (I) If the risk accepts an offer of coverage through the  
841 market assistance plan or ~~an offer of coverage through a~~

597-03336-11

20111714c1

842 mechanism established by the corporation before a policy is  
843 issued to the risk by the corporation or during the first 30  
844 days of coverage by the corporation, and the producing agent who  
845 submitted the application to the plan or to the corporation is  
846 not currently appointed by the insurer, the insurer shall:

847 (A) Pay to the producing agent of record of the policy, for  
848 the first year, an amount that is the greater of the insurer's  
849 usual and customary commission for the type of policy written or  
850 a fee equal to the usual and customary commission of the  
851 corporation; or

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

857  
858 If the producing agent is unwilling or unable to accept  
859 appointment, the new insurer shall pay the agent in accordance  
860 with sub-sub-sub-subparagraph (A).

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

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

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

597-03336-11

20111714c1

871 ~~corporation policy~~ to continue servicing the policy for at least  
872 ~~a period of not less than~~ 1 year and offer to pay the agent the  
873 greater of the insurer's or the corporation's usual and  
874 customary commission for the type of policy written.

875

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

879 b. Subject to s. 627.3517, with respect to commercial lines  
880 residential risks, ~~for a new application to the corporation for~~  
881 ~~coverage,~~ if the risk is offered coverage under a policy  
882 including wind coverage from an authorized insurer at its  
883 approved rate, the risk is not eligible for a any policy issued  
884 by the corporation ~~unless the premium for coverage from the~~  
885 ~~authorized insurer is more than 15 percent greater than the~~  
886 ~~premium for comparable coverage from the corporation.~~ If the  
887 risk is not able to obtain any such offer, the risk is eligible  
888 for a policy including wind coverage issued by the corporation.  
889 Notwithstanding these limitations, an application for coverage  
890 having an effective date before January 1, 2015, is eligible for  
891 coverage by the corporation if the premium for coverage from an  
892 authorized insurer exceeds the premium from the corporation by  
893 more than 25 percent. ~~However, with regard to a policyholder of~~  
894 ~~the corporation or a policyholder removed from the corporation~~  
895 ~~through an assumption agreement until the end of the assumption~~  
896 ~~period, the policyholder remains eligible for coverage from the~~  
897 ~~corporation regardless of any offer of coverage from an~~  
898 ~~authorized insurer or surplus lines insurer.~~

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

597-03336-11

20111714c1

900 market assistance plan or ~~an offer of coverage~~ through a  
901 mechanism established by the corporation before a policy is  
902 issued to the risk by the corporation or during the first 30  
903 days of coverage by the corporation, and the producing agent who  
904 submitted the application to the plan or the corporation is not  
905 currently appointed by the insurer, the insurer shall:

906 (A) Pay to the producing agent ~~of record of the policy~~, for  
907 the first year, an amount that is the greater of the insurer's  
908 usual and customary commission for the type of policy written or  
909 a fee equal to the usual and customary commission of the  
910 corporation; or

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

916

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

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

924 (A) Pay to the producing agent ~~of record of the corporation~~  
925 ~~policy~~, for the first year, an amount that is the greater of the  
926 insurer's usual and customary commission for the type of policy  
927 written or a fee equal to the usual and customary commission of  
928 the corporation; or

597-03336-11

20111714c1

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

934

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

938 c. Effective upon this act becoming a law, the corporation  
939 shall cease to accept applications for or issue new policies  
940 covering commercial nonresidential risks. ~~For purposes of~~  
941 ~~determining comparable coverage under sub-subparagraphs a. and~~  
942 ~~b., the comparison shall be based on those forms and coverages~~  
943 ~~that are reasonably comparable. The corporation may rely on a~~  
944 ~~determination of comparable coverage and premium made by the~~  
945 ~~producing agent who submits the application to the corporation,~~  
946 ~~made in the agent's capacity as the corporation's agent. A~~  
947 ~~comparison may be made solely of the premium with respect to the~~  
948 ~~main building or structure only on the following basis: the same~~  
949 ~~coverage A or other building limits; the same percentage~~  
950 ~~hurricane deductible that applies on an annual basis or that~~  
951 ~~applies to each hurricane for commercial residential property;~~  
952 ~~the same percentage of ordinance and law coverage, if the same~~  
953 ~~limit is offered by both the corporation and the authorized~~  
954 ~~insurer; the same mitigation credits, to the extent the same~~  
955 ~~types of credits are offered both by the corporation and the~~  
956 ~~authorized insurer; the same method for loss payment, such as~~  
957 ~~replacement cost or actual cash value, if the same method is~~

597-03336-11

20111714c1

958 ~~offered both by the corporation and the authorized insurer in~~  
959 ~~accordance with underwriting rules; and any other form or~~  
960 ~~coverage that is reasonably comparable as determined by the~~  
961 ~~board. If an application is submitted to the corporation for~~  
962 ~~wind-only coverage in the high-risk account, the premium for the~~  
963 ~~corporation's wind-only policy plus the premium for the ex-wind~~  
964 ~~policy that is offered by an authorized insurer to the applicant~~  
965 ~~shall be compared to the premium for multiperil coverage offered~~  
966 ~~by an authorized insurer, subject to the standards for~~  
967 ~~comparison specified in this subparagraph. If the corporation or~~  
968 ~~the applicant requests from the authorized insurer a breakdown~~  
969 ~~of the premium of the offer by types of coverage so that a~~  
970 ~~comparison may be made by the corporation or its agent and the~~  
971 ~~authorized insurer refuses or is unable to provide such~~  
972 ~~information, the corporation may treat the offer as not being an~~  
973 ~~offer of coverage from an authorized insurer at the insurer's~~  
974 ~~approved rate.~~

975 ~~5.6.~~ Must include rules for classifications of risks and  
976 rates therefor.

977 ~~6.7.~~ Must provide that if premium and investment income for  
978 an account attributable to a particular calendar year are in  
979 excess of projected losses and expenses for the account  
980 attributable to that year, such excess shall be held in surplus  
981 in the account. Such surplus must ~~shall~~ be available to defray  
982 deficits in that account as to future years and ~~shall be~~ used  
983 for that purpose before ~~prior to~~ assessing assessable insurers  
984 and assessable insureds as to any calendar year.

985 ~~7.8.~~ Must provide objective criteria and procedures to be  
986 uniformly applied to ~~for~~ all applicants in determining whether

597-03336-11

20111714c1

987 an individual risk is so hazardous as to be uninsurable. In  
988 making this determination and in establishing the criteria and  
989 procedures, the following must ~~shall~~ be considered:

990 a. Whether the likelihood of a loss for the individual risk  
991 is substantially higher than for other risks of the same class;  
992 and

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

995  
996 The acceptance or rejection of a risk by the corporation shall  
997 be construed as the private placement of insurance, and the  
998 provisions of chapter 120 do ~~shall~~ not apply.

999 ~~8.9. Must provide that the corporation~~ Shall make its best  
1000 efforts to procure catastrophe reinsurance at reasonable rates,  
1001 to cover its projected 100-year probable maximum loss as  
1002 determined by the board of governors.

1003 ~~9.10. Must issue~~ The policies that issued by the  
1004 ~~corporation must~~ provide that, if the corporation or the market  
1005 assistance plan obtains an offer from an authorized insurer to  
1006 cover the risk at its approved rates or from a surplus lines  
1007 insurer, the risk is no longer eligible for renewal through the  
1008 corporation, except as otherwise provided in this subsection.

1009 ~~10.11. Must Corporation Policies and applications must~~  
1010 include a notice in the corporation policies and applications  
1011 that the corporation policy could, under this section, be  
1012 replaced with a policy issued by an ~~authorized~~ insurer which  
1013 ~~that~~ does not provide coverage identical to the coverage  
1014 provided by the corporation. The notice must ~~shall~~ also specify  
1015 that acceptance of corporation coverage creates a conclusive

597-03336-11

20111714c1

1016 presumption that the applicant or policyholder is aware of this  
1017 potential.

1018 ~~11.12.~~ May establish, subject to approval by the office,  
1019 different eligibility requirements and operational procedures  
1020 for any line or type of coverage for any specified county or  
1021 area if the board determines that such changes ~~to the~~  
1022 ~~eligibility requirements and operational procedures~~ are  
1023 justified due to the voluntary market being sufficiently stable  
1024 and competitive in such area or for such line or type of  
1025 coverage and that consumers who, in good faith, are unable to  
1026 obtain insurance through the voluntary market through ordinary  
1027 methods ~~would~~ continue to have access to coverage from the  
1028 corporation. If ~~When~~ coverage is sought in connection with a  
1029 real property transfer, the ~~such~~ requirements and procedures may  
1030 ~~shall~~ not provide ~~for~~ an effective date of coverage later than  
1031 the date of the closing of the transfer as established by the  
1032 transferor, the transferee, and, if applicable, the lender.

1033 ~~12.13.~~ Must provide that, with respect to the high-risk  
1034 account, any assessable insurer with a surplus as to  
1035 policyholders of \$25 million or less writing 25 percent or more  
1036 of its total countrywide property insurance premiums in this  
1037 state may petition the office, within the first 90 days of each  
1038 calendar year, to qualify as a limited apportionment company. A  
1039 regular assessment levied by the corporation on a limited  
1040 apportionment company for a deficit incurred by the corporation  
1041 for the high-risk account ~~in 2006 or thereafter~~ may be paid to  
1042 the corporation on a monthly basis as the assessments are  
1043 collected by the limited apportionment company from its insureds  
1044 pursuant to s. 627.3512, but the regular assessment must be paid

597-03336-11

20111714c1

1045 in full within 12 months after being levied by the corporation.  
1046 A limited apportionment company shall collect from its  
1047 policyholders any emergency assessment imposed under sub-  
1048 subparagraph (b)3.d. ~~The plan shall provide that,~~ If the office  
1049 determines that any regular assessment will result in an  
1050 impairment of the surplus of a limited apportionment company,  
1051 the office may direct that all or part of such assessment be  
1052 deferred as provided in subparagraph (q)4. However, ~~there shall~~  
1053 ~~be no limitation or deferment of~~ an emergency assessment to be  
1054 collected from policyholders under sub-subparagraph (b)3.d. may  
1055 not be limited or deferred.

1056 ~~13.14.~~ Effective January 1, 2012, must ~~provide that the~~  
1057 ~~corporation~~ appoint as its licensed agents only those agents who  
1058 also hold an appointment as defined in s. 626.015(3) with an  
1059 insurer who ~~at the time of the agent's initial appointment by~~  
1060 ~~the corporation~~ is authorized to write and is actually writing  
1061 personal lines residential property coverage, commercial  
1062 residential property coverage, or commercial nonresidential  
1063 property coverage within the state.

1064 ~~14.15.~~ Must provide, ~~by July 1, 2007,~~ a premium payment  
1065 plan option to its policyholders which, allows at a minimum,  
1066 allows for quarterly and semiannual payment of premiums. A  
1067 monthly payment plan may, ~~but is not required to,~~ be offered.

1068 ~~15.16.~~ Must limit coverage on mobile homes or manufactured  
1069 homes built before ~~prior to~~ 1994 to actual cash value of the  
1070 dwelling rather than replacement costs of the dwelling.

1071 ~~16.17.~~ May provide such limits of coverage as the board  
1072 determines, consistent with the requirements of this subsection.

1073 ~~17.18.~~ May require commercial property to meet specified

597-03336-11

20111714c1

1074 hurricane mitigation construction features as a condition of  
1075 eligibility for coverage.

1076 18. As of January 1, 2012, must require that the agent  
1077 obtain from an applicant for coverage from the corporation an  
1078 acknowledgement signed by the applicant, which includes, at a  
1079 minimum, the following statement:

1080  
1081 ACKNOWLEDGEMENT OF POTENTIAL SURCHARGE AND ASSESSMENT  
1082 LIABILITY:

1083  
1084 1. AS A POLICYHOLDER OF CITIZENS PROPERTY  
1085 INSURANCE CORPORATION, I UNDERSTAND THAT IF THE  
1086 CORPORATION SUSTAINS A DEFICIT AS A RESULT OF  
1087 HURRICANE LOSSES OR FOR ANY OTHER REASON, MY POLICY  
1088 COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND  
1089 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF  
1090 THE POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH  
1091 AS 45 PERCENT OF MY PREMIUM, OR A DIFFERENT AMOUNT AS  
1092 IMPOSED BY THE FLORIDA LEGISLATURE.

1093 2. I ALSO UNDERSTAND THAT I MAY BE SUBJECT TO  
1094 EMERGENCY ASSESSMENTS TO THE SAME EXTENT AS  
1095 POLICYHOLDERS OF OTHER INSURANCE COMPANIES, OR A  
1096 DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA  
1097 LEGISLATURE.

1098 3. I ALSO UNDERSTAND THAT CITIZENS PROPERTY  
1099 INSURANCE CORPORATION IS NOT SUPPORTED BY THE FULL  
1100 FAITH AND CREDIT OF THE STATE OF FLORIDA.

1101  
1102 a. The corporation shall maintain, in electronic format or

597-03336-11

20111714c1

1103 otherwise, a copy of the applicant's signed acknowledgement and  
1104 provide a copy of the statement to the policyholder as part of  
1105 the first renewal after the effective date of this sub-  
1106 subparagraph.

1107 b. The signed acknowledgement form creates a conclusive  
1108 presumption that the policyholder understood and accepted his or  
1109 her potential surcharge and assessment liability as a  
1110 policyholder of the corporation.

1111 19. Upon notice and determination by the Department of  
1112 Financial Services that an agent appointed by the corporation  
1113 has violated s. 626.9541(1)(h), immediately terminate the  
1114 agent's appointment to represent the corporation.

1115 20. Must provide that new or renewal policies issued by the  
1116 corporation on or after February 1, 2012, do not include  
1117 coverage for attached or detached screen enclosures. The  
1118 corporation shall exclude such coverage using a notice of  
1119 coverage change, which may be included with the policy renewal,  
1120 and not by issuance of a notice of nonrenewal of the excluded  
1121 coverage upon renewal of the current policy.

1122 21. Must provide that new or renewal personal residential  
1123 policies issued by the corporation on or after February 1, 2013,  
1124 do not provide coverage for detached structures on the residence  
1125 premises which are separated from the dwelling by clear space.  
1126 Structures connected to the dwelling by only a fence, utility  
1127 line, or similar connection are considered to be detached  
1128 structures.

1129 22. Must provide that new or renewal personal residential  
1130 policies issued by the corporation on or after February 1, 2013,  
1131 do not provide coverage for watercraft, trailers, jewelry, furs,

597-03336-11

20111714c1

1132 firearms, silverware, business property on premises, business  
1133 property away from premises, or grave markers.

1134 23. Must offer sinkhole coverage. However, effective  
1135 February 1, 2012, coverage is not included for losses to  
1136 appurtenant structures, driveways, sidewalks, decks, or patios  
1137 which are directly or indirectly caused by sinkhole activity.  
1138 The corporation shall exclude such coverage using a notice of  
1139 coverage change, which may be included with the policy renewal,  
1140 and not by issuance of a notice of nonrenewal of the excluded  
1141 coverage upon renewal of the current policy.

1142 24. As a condition for making payment for damage caused by  
1143 the peril of sinkhole, regardless of whether such payment is  
1144 made pursuant to the contract, mediation, neutral evaluation,  
1145 appraisal, arbitration, settlement, or litigation, the payment  
1146 must be dedicated entirely to the costs of repairing the  
1147 structure or remediation of the land. Unless this condition is  
1148 met, the corporation is prohibited from making payment.

1149 (d)1. All prospective employees for senior management  
1150 positions, as defined by the plan of operation, are subject to  
1151 background checks as a prerequisite for employment. The office  
1152 shall conduct the background checks ~~on such prospective~~  
1153 ~~employees~~ pursuant to ss. 624.34, 624.404(3), and 628.261.

1154 2. On or before July 1 of each year, employees of the  
1155 corporation must ~~are required to~~ sign and submit a statement  
1156 attesting that they do not have a conflict of interest, as  
1157 defined in part III of chapter 112. As a condition of  
1158 employment, all prospective employees must ~~are required to~~ sign  
1159 and submit to the corporation a conflict-of-interest statement.

1160 3. Senior managers and members of the board of governors

597-03336-11

20111714c1

1161 are subject to ~~the provisions of~~ part III of chapter 112,  
1162 including, but not limited to, the code of ethics and public  
1163 disclosure and reporting of financial interests, pursuant to s.  
1164 112.3145.

1165 a. Senior managers and board members are also required to  
1166 file such disclosures with the Commission on Ethics and the  
1167 Office of Insurance Regulation. The executive director of the  
1168 corporation or his or her designee shall notify each existing  
1169 and newly appointed ~~and existing appointed~~ member of the board  
1170 of governors and senior managers of their duty to comply with  
1171 the reporting requirements of part III of chapter 112. At least  
1172 quarterly, the executive director or his or her designee shall  
1173 submit to the Commission on Ethics a list of names of the senior  
1174 managers and members of the board of governors who are subject  
1175 to the public disclosure requirements under s. 112.3145.

1176 b. Notwithstanding s. 112.3143(2), a board member may not  
1177 vote on any measure that would inure to his or her special  
1178 private gain or loss; that he or she knows would inure to the  
1179 special private gain or loss of any principal by whom he or she  
1180 is retained or to the parent organization or subsidiary of a  
1181 corporate principal by which he or she is retained, other than  
1182 an agency as defined in s. 112.312; or that he or she knows  
1183 would inure to the special private gain or loss of a relative or  
1184 business associate of the public officer. Before the vote is  
1185 taken, such member must publicly state to the assembly the  
1186 nature of his or her interest in the matter from which he or she  
1187 is abstaining and, within 15 days after the vote occurs,  
1188 disclose the nature of his or her interest as a public record in  
1189 a memorandum filed with the person responsible for recording the

597-03336-11

20111714c1

1190 minutes of the meeting, who shall incorporate the memorandum in  
1191 the minutes.

1192 4. Notwithstanding s. 112.3148 or s. 112.3149, or any other  
1193 provision of law, an employee or board member may not knowingly  
1194 accept, directly or indirectly, any gift or expenditure from a  
1195 person or entity, or an employee or representative of such  
1196 person or entity, which ~~that~~ has a contractual relationship with  
1197 the corporation or who is under consideration for a contract. An  
1198 employee or board member who fails to comply with subparagraph  
1199 3. or this subparagraph is subject to penalties provided under  
1200 ss. 112.317 and 112.3173.

1201 5. Any senior manager of the corporation who is employed on  
1202 or after January 1, 2007, regardless of the date of hire, who  
1203 subsequently retires or terminates employment is prohibited from  
1204 representing another person or entity before the corporation for  
1205 2 years after retirement or termination of employment from the  
1206 corporation.

1207 6. Any senior manager of the corporation who is employed on  
1208 or after January 1, 2007, regardless of the date of hire, who  
1209 subsequently retires or terminates employment is prohibited from  
1210 having any employment or contractual relationship for 2 years  
1211 with an insurer that has entered into a take-out bonus agreement  
1212 with the corporation.

1213 ~~(n)4.~~ It is the intent of the Legislature that the rates  
1214 for coverage provided by the corporation be actuarially  
1215 determined and not be competitive with rates charged in the  
1216 admitted voluntary market such that the corporation functions as  
1217 a residual market mechanism that provides insurance only if such  
1218 insurance cannot be procured in the voluntary market. To achieve

597-03336-11

20111714c1

1219 this goal, for any rate filing made by the corporation on or  
1220 after July 1, 2011: Rates for coverage provided by the  
1221 corporation shall be actuarially sound and subject to the  
1222 requirements of s. 627.062, except as otherwise provided in this  
1223 paragraph. The corporation shall file its recommended rates with  
1224 the office at least annually. The corporation shall provide any  
1225 additional information regarding the rates which the office  
1226 requires. The office shall consider the recommendations of the  
1227 board and issue a final order establishing the rates for the  
1228 corporation within 45 days after the recommended rates are  
1229 filed. The corporation may not pursue an administrative  
1230 challenge or judicial review of the final order of the office.

1231 1. The corporation shall file its recommended rates with  
1232 the office at least annually. The office shall consider the  
1233 recommended rates and issue a final order establishing the rates  
1234 within 45 days after the recommended rates are filed. The  
1235 corporation may not pursue an administrative challenge or  
1236 judicial review of the office's final order.

1237 2. In developing its rates, the corporation shall use an  
1238 appropriate industry expense equalization factor to ensure that  
1239 its rates include standard industry ratemaking expense  
1240 provisions. The industry expense equalization factor must  
1241 include a catastrophe risk load, a provision for taxes, a market  
1242 provision for reinsurance costs, and an industry expense  
1243 provision for general expenses, acquisition expenses, and  
1244 commissions.

1245 3. The corporation shall implement a rate increase each  
1246 year for each residential line of business it writes, which may  
1247 not exceed 20 percent by territory and 25 percent for any single

597-03336-11

20111714c1

1248 policy, excluding coverage changes and surcharges. This  
1249 subparagraph expires January 1, 2015, and does not apply to  
1250 rates for sinkhole coverage or costs for the purchase of private  
1251 reinsurance, if any.

1252 ~~4.2.~~ In addition to the rates otherwise determined pursuant  
1253 to this paragraph, the corporation shall impose and collect an  
1254 amount equal to the premium tax provided for in s. 624.509 to  
1255 augment the financial resources of the corporation.

1256 ~~3. After the public hurricane loss projection model under~~  
1257 ~~s. 627.06281 has been found to be accurate and reliable by the~~  
1258 ~~Florida Commission on Hurricane Loss Projection Methodology,~~  
1259 ~~that model shall serve as the minimum benchmark for determining~~  
1260 ~~the windstorm portion of the corporation's rates. This~~  
1261 ~~subparagraph does not require or allow the corporation to adopt~~  
1262 ~~rates lower than the rates otherwise required or allowed by this~~  
1263 ~~paragraph.~~

1264 ~~4. The rate filings for the corporation which were approved~~  
1265 ~~by the office and which took effect January 1, 2007, are~~  
1266 ~~rescinded, except for those rates that were lowered. As soon as~~  
1267 ~~possible, the corporation shall begin using the lower rates that~~  
1268 ~~were in effect on December 31, 2006, and shall provide refunds~~  
1269 ~~to policyholders who have paid higher rates as a result of that~~  
1270 ~~rate filing. The rates in effect on December 31, 2006, shall~~  
1271 ~~remain in effect for the 2007 and 2008 calendar years except for~~  
1272 ~~any rate change that results in a lower rate. The next rate~~  
1273 ~~change that may increase rates shall take effect pursuant to a~~  
1274 ~~new rate filing recommended by the corporation and established~~  
1275 ~~by the office, subject to the requirements of this paragraph.~~

1276 ~~5. Beginning on July 15, 2009, and each year thereafter,~~

597-03336-11

20111714c1

1277 ~~the corporation must make a recommended actuarially sound rate~~  
1278 ~~filing for each personal and commercial line of business it~~  
1279 ~~writes, to be effective no earlier than January 1, 2010.~~

1280 ~~6. Beginning on or after January 1, 2010, and~~  
1281 ~~notwithstanding the board's recommended rates and the office's~~  
1282 ~~final order regarding the corporation's filed rates under~~  
1283 ~~subparagraph 1., the corporation shall implement a rate increase~~  
1284 ~~each year which does not exceed 10 percent for any single policy~~  
1285 ~~issued by the corporation, excluding coverage changes and~~  
1286 ~~surecharges.~~

1287 ~~5.7.~~ The corporation may also implement an increase to  
1288 reflect the effect on the corporation of the cash buildup factor  
1289 pursuant to s. 215.555(5)(b).

1290 6. This paragraph does not require or allow the corporation  
1291 to reduce rates.

1292 ~~8. The corporation's implementation of rates as prescribed~~  
1293 ~~in subparagraph 6. shall cease for any line of business written~~  
1294 ~~by the corporation upon the corporation's implementation of~~  
1295 ~~actuarially sound rates. Thereafter, the corporation shall~~  
1296 ~~annually make a recommended actuarially sound rate filing for~~  
1297 ~~each commercial and personal line of business the corporation~~  
1298 ~~writes.~~

1299 (o) If coverage in an account is deactivated pursuant to  
1300 paragraph (p), coverage through the corporation shall be  
1301 reactivated by order of the office only under one of the  
1302 following circumstances:

1303 1. If the market assistance plan receives a minimum of 100  
1304 applications for coverage within a 3-month period, or 200  
1305 applications for coverage within a 1-year period or less for

597-03336-11

20111714c1

1306 residential coverage, unless the market assistance plan provides  
1307 a quotation from admitted carriers at their filed rates for at  
1308 least 90 percent of such applicants. A ~~Any~~ market assistance  
1309 plan application that is rejected because an individual risk is  
1310 so hazardous as to be uninsurable using the criteria specified  
1311 in subparagraph (c)7. ~~may (e)8. shall~~ not be included in the  
1312 minimum percentage calculation ~~provided herein.~~ If ~~In the event~~  
1313 ~~that~~ there is a legal or administrative challenge to a  
1314 determination by the office that the conditions of this  
1315 subparagraph have been met for eligibility for coverage by ~~in~~  
1316 the corporation, an ~~any~~ eligible risk may obtain coverage during  
1317 the pendency of such challenge.

1318 2. In response to a state of emergency declared by the  
1319 Governor under s. 252.36, the office may activate coverage by  
1320 order during ~~for the period of~~ the emergency upon a finding by  
1321 the office that the emergency significantly affects the  
1322 availability of residential property insurance.

1323 (q)1. The corporation shall certify to the office its needs  
1324 for annual assessments as to a particular calendar year, and for  
1325 any interim assessments that it deems to be necessary to sustain  
1326 operations as to a particular year pending the receipt of annual  
1327 assessments. Upon verification, the office shall approve such  
1328 certification, and the corporation shall levy such annual or  
1329 interim assessments. Such assessments must ~~shall~~ be prorated as  
1330 provided in paragraph (b). The corporation shall take all  
1331 reasonable and prudent steps necessary to collect the amount of  
1332 assessment due from each assessable insurer, including, if  
1333 prudent, filing suit to collect such assessment. If the  
1334 corporation is unable to collect an assessment from any

597-03336-11

20111714c1

1335 assessable insurer, the uncollected assessments shall be levied  
1336 as an additional assessment against the assessable insurers and  
1337 any assessable insurer required to pay an additional assessment  
1338 ~~as a result of such failure to pay~~ shall have a cause of action  
1339 against such nonpaying assessable insurer. Assessments shall be  
1340 included as an appropriate factor in the making of rates. The  
1341 failure of a surplus lines agent to collect and remit any  
1342 regular or emergency assessment levied by the corporation is  
1343 ~~considered to be~~ a violation of s. 626.936 and subjects the  
1344 surplus lines agent to the penalties provided in that section.

1345       2. The governing body of any unit of local government, ~~any~~  
1346 residents of which are insured by the corporation, may issue  
1347 bonds as defined in s. 125.013 or s. 166.101 ~~from time to time~~  
1348 to fund an assistance program, in conjunction with the  
1349 corporation, for the purpose of defraying deficits of the  
1350 corporation. In order to avoid needless and indiscriminate  
1351 proliferation, duplication, and fragmentation of such assistance  
1352 programs, any unit of local government, ~~any~~ residents of which  
1353 are insured by the corporation, may provide for the payment of  
1354 losses, regardless of whether or not the losses occurred within  
1355 or outside of the territorial jurisdiction of the local  
1356 government. Revenue bonds under this subparagraph may not be  
1357 issued until validated pursuant to chapter 75, unless a state of  
1358 emergency is declared by executive order or proclamation of the  
1359 Governor pursuant to s. 252.36 making such findings as are  
1360 necessary to determine that it is in the best interests of, and  
1361 necessary for, the protection of the public health, safety, and  
1362 general welfare of residents of this state and declaring it an  
1363 essential public purpose to permit certain municipalities or

597-03336-11

20111714c1

1364 counties to issue such bonds to ~~as will~~ permit relief to  
1365 claimants and policyholders of the corporation. Any such unit of  
1366 local government may enter into such contracts with the  
1367 corporation and with any other entity created pursuant to this  
1368 subsection as are necessary to carry out this paragraph. Any  
1369 bonds issued under this subparagraph are ~~shall be~~ payable from  
1370 and secured by moneys received by the corporation from emergency  
1371 assessments under sub-subparagraph (b)3.d., and assigned and  
1372 pledged to or on behalf of the unit of local government for the  
1373 benefit of the holders of such bonds. The funds, credit,  
1374 property, and taxing power of the state or of the unit of local  
1375 government may ~~shall~~ not be pledged for the payment of such  
1376 bonds.

1377 ~~3.a.~~ The corporation shall adopt one or more programs  
1378 subject to approval by the office for the reduction of both new  
1379 and renewal writings in the corporation. ~~Beginning January 1,~~  
1380 ~~2008,~~

1381 a. Any program the corporation adopts for the payment of  
1382 bonuses to an insurer for each risk the insurer removes from the  
1383 corporation must ~~shall~~ comply with s. 627.3511(2) and may not  
1384 exceed the amount referenced in s. 627.3511(2) for each risk  
1385 removed. The corporation may consider any prudent and not  
1386 unfairly discriminatory approach to reducing corporation  
1387 writings, and may adopt a credit against assessment liability or  
1388 other liability that provides an incentive for insurers to take  
1389 risks out of the corporation and to keep risks out of the  
1390 corporation by maintaining or increasing voluntary writings in  
1391 counties or areas in which corporation risks are highly  
1392 concentrated and a program to provide a formula under which an

597-03336-11

20111714c1

1393 insurer voluntarily taking risks out of the corporation by  
1394 maintaining or increasing voluntary writings will be relieved  
1395 wholly or partially from assessments under sub-subparagraphs  
1396 (b)3.a. and b. However, any "take-out bonus" or payment to an  
1397 insurer must be conditioned on the property being insured for at  
1398 least 5 years by the insurer, unless canceled or nonrenewed by  
1399 the policyholder. If the policy is canceled or nonrenewed by the  
1400 policyholder before the end of the 5-year period, the amount of  
1401 the take-out bonus must be prorated for the time period the  
1402 policy was insured. If ~~When~~ the corporation enters into a  
1403 contractual agreement for a take-out plan, the producing agent  
1404 of record of the corporation policy is entitled to retain any  
1405 unearned commission on such policy, and the insurer shall  
1406 either:

1407 (I) Pay to the producing agent of record of the policy, for  
1408 the first year, an amount that ~~which~~ is the greater of the  
1409 insurer's usual and customary commission for the type of policy  
1410 written or a policy fee equal to the usual and customary  
1411 commission of the corporation; or

1412 (II) Offer to allow the producing agent of record of the  
1413 policy to continue servicing the policy for at least ~~a period of~~  
1414 ~~not less than~~ 1 year and offer to pay the agent the insurer's  
1415 usual and customary commission for the type of policy written.  
1416 If the producing agent is unwilling or unable to accept  
1417 appointment by the new insurer, the new insurer shall pay the  
1418 agent in accordance with sub-sub-subparagraph (I).

1419 b. Any credit or exemption from regular assessments adopted  
1420 under this subparagraph shall last no longer than the 3 years  
1421 following the cancellation or expiration of the policy by the

597-03336-11

20111714c1

1422 corporation. With the approval of the office, the board may  
1423 extend such credits for an additional year if the insurer  
1424 guarantees an additional year of renewability for all policies  
1425 removed from the corporation, or for 2 additional years if the  
1426 insurer guarantees 2 additional years of renewability for all  
1427 policies so removed.

1428 c. ~~There shall be~~ No credit, limitation, exemption, or  
1429 deferment from emergency assessments may ~~to~~ be collected from  
1430 policyholders pursuant to sub-subparagraph (b)3.d.

1431 4. The plan must ~~shall~~ provide for the deferment, in whole  
1432 or in part, of the assessment of an assessable insurer, other  
1433 than an emergency assessment collected from policyholders  
1434 pursuant to sub-subparagraph (b)3.d., if the office finds that  
1435 payment of the assessment would endanger or impair the solvency  
1436 of the insurer. If ~~In the event~~ an assessment against an  
1437 assessable insurer is deferred in whole or in part, the amount  
1438 ~~by which such assessment is~~ deferred may be assessed against the  
1439 other assessable insurers in a manner consistent with the basis  
1440 for assessments set forth in paragraph (b).

1441 5. ~~Effective July 1, 2007,~~ In order to evaluate the costs  
1442 and benefits of approved take-out plans, if the corporation pays  
1443 a bonus or other payment to an insurer for an approved take-out  
1444 plan, it shall maintain a record of the address or such other  
1445 identifying information on the property or risk removed in order  
1446 to track if and when the property or risk is later insured by  
1447 the corporation.

1448 6. Any policy taken out, assumed, or removed from the  
1449 corporation is, as of the effective date of the take-out,  
1450 assumption, or removal, direct insurance issued by the insurer

597-03336-11

20111714c1

1451 and not by the corporation, even if the corporation continues to  
1452 service the policies. This subparagraph applies to policies of  
1453 the corporation and not policies taken out, assumed, or removed  
1454 from any other entity.

1455 d. Notwithstanding any other provision of law, for purposes  
1456 of a depopulation, take-out, or keep-out program adopted by the  
1457 corporation, including an initial or renewal offer of coverage  
1458 made to a policyholder removed from the corporation pursuant to  
1459 such program, an eligible surplus lines insurer may participate  
1460 in the program in the same manner and on the same terms as an  
1461 authorized insurer, except as provided under this subparagraph.  
1462 To qualify for participation, the surplus lines insurer must  
1463 first obtain approval from the office for its depopulation,  
1464 take-out, or keep-out plan and then comply with all of the  
1465 corporation's requirements for such plan applicable to admitted  
1466 insurers and with all statutory provisions applicable to the  
1467 removal of policies from the corporation. In considering a  
1468 surplus lines insurer's request for approval for its plan, the  
1469 office must determine that the surplus lines insurer meets the  
1470 following requirements:

1471 (I) Maintains surplus of \$50 million on a company or pooled  
1472 basis;

1473 (II) Maintains an A.M. Best Financial Strength Rating of  
1474 "A-" or better;

1475 (III) Maintains reserves, surplus, reinsurance, and  
1476 reinsurance equivalents sufficient to cover the insurer's 100-  
1477 year probable maximum hurricane loss at least twice in a single  
1478 hurricane season, and submits such reinsurance to the office to  
1479 review for purposes of the take-out;

597-03336-11

20111714c1

1480 (IV) Provides prominent notice to the policyholder before  
1481 the assumption of the policy that surplus lines policies are not  
1482 provided coverage by the Florida Insurance Guaranty Association,  
1483 and an outline of any substantial differences in coverage  
1484 between the existing policy and the policy being offered to the  
1485 insured; and

1486 (V) Provides similar policy coverage.

1487

1488 This sub-subparagraph does not subject any surplus lines insurer  
1489 to requirements in addition to part VIII of chapter 626. Surplus  
1490 lines brokers making an offer of coverage under this sub-  
1491 subparagraph are not required to comply with s. 626.916(1)(a),  
1492 (b), (c), and (e).

1493 (s)1. There is ~~shall be~~ no liability on the part of, and no  
1494 cause of action ~~of any nature~~ shall arise against, any  
1495 assessable insurer or its agents or employees, the corporation  
1496 or its agents or employees, members of the board of governors or  
1497 their respective designees at a board meeting, corporation  
1498 committee members, or the office or its representatives, for any  
1499 action taken by them in the performance of their duties or  
1500 responsibilities under this subsection.

1501 a. As part of the immunity, the corporation, as a  
1502 governmental entity serving a public purpose, is not liable for  
1503 any claim for bad faith whether or not brought pursuant to s.  
1504 624.155, and this subsection or any other provision of law does  
1505 not create liability or a cause of action for bad faith or a  
1506 claim for extracontractual damages.

1507 b. Such immunity does not apply to:

1508 (I)~~a.~~ Any of the foregoing persons or entities for any

597-03336-11

20111714c1

1509 willful tort;

1510 (II)~~b.~~ The corporation or its producing agents for breach  
1511 of any contract or agreement pertaining to insurance coverage;

1512 (III)~~e.~~ The corporation with respect to issuance or payment  
1513 of debt;

1514 (IV)~~d.~~ An Any assessable insurer with respect to any action  
1515 to enforce an assessable insurer's obligations to the  
1516 corporation under this subsection; or

1517 (V)~~e.~~ The corporation in any pending or future action for  
1518 breach of contract or for benefits under a policy issued by the  
1519 corporation. + In any such action, the corporation is not ~~shall~~  
1520 ~~be~~ liable to the policyholders and beneficiaries for attorney's  
1521 fees under s. 627.428.

1522 2. The corporation shall manage its claim employees,  
1523 independent adjusters, and others who handle claims to ensure  
1524 they carry out the corporation's duty to its policyholders to  
1525 handle claims carefully, timely, diligently, and in good faith,  
1526 balanced against the corporation's duty to the state to manage  
1527 its assets responsibly in order to minimize its assessment  
1528 potential.

1529 (w) Notwithstanding any other provision of law:

1530 1. The pledge or sale of, the lien upon, and the security  
1531 interest in any rights, revenues, or other assets of the  
1532 corporation created or purported to be created pursuant to any  
1533 financing documents to secure any bonds or other indebtedness of  
1534 the corporation shall be and remain valid and enforceable,  
1535 notwithstanding the commencement of and during the continuation  
1536 of, and after, any rehabilitation, insolvency, liquidation,  
1537 bankruptcy, receivership, conservatorship, reorganization, or

597-03336-11

20111714c1

1538 similar proceeding against the corporation under the laws of  
1539 this state.

1540 2. ~~No~~ Such proceeding does not shall relieve the  
1541 corporation of its obligation, or otherwise affect its ability  
1542 to perform its obligation, to continue to collect, or levy and  
1543 collect, assessments, market equalization or other surcharges  
1544 ~~under subparagraph (c)10.~~, or any other rights, revenues, or  
1545 other assets of the corporation pledged pursuant to any  
1546 financing documents.

1547 3. Each such pledge or sale of, lien upon, and security  
1548 interest in, including the priority of such pledge, lien, or  
1549 security interest, any such assessments, market equalization or  
1550 other surcharges, or other rights, revenues, or other assets  
1551 which are collected, or levied and collected, after the  
1552 commencement of and during the pendency of, or after, any such  
1553 proceeding continues shall continue unaffected by such  
1554 proceeding. As used in this subsection, the term "financing  
1555 documents" means any agreement or agreements, instrument or  
1556 instruments, or other document or documents now existing or  
1557 hereafter created evidencing any bonds or other indebtedness of  
1558 the corporation or pursuant to which any such bonds or other  
1559 indebtedness has been or may be issued and pursuant to which any  
1560 rights, revenues, or other assets of the corporation are pledged  
1561 or sold to secure the repayment of such bonds or indebtedness,  
1562 together with the payment of interest on such bonds or such  
1563 indebtedness, or the payment of any other obligation or  
1564 financial product, as defined in the plan of operation of the  
1565 corporation related to such bonds or indebtedness.

1566 4. Any such pledge or sale of assessments, revenues,

597-03336-11

20111714c1

1567 contract rights, or other rights or assets of the corporation  
1568 constitutes ~~shall constitute~~ a lien and security interest, or  
1569 sale, as the case may be, that is immediately effective and  
1570 attaches to such assessments, revenues, or contract rights or  
1571 other rights or assets, whether or not imposed or collected at  
1572 the time the pledge or sale is made. ~~Any~~ Such pledge or sale is  
1573 effective, valid, binding, and enforceable against the  
1574 corporation or other entity making such pledge or sale, and  
1575 valid and binding against and superior to any competing claims  
1576 or obligations owed to any other person or entity, including  
1577 policyholders in this state, asserting rights in any such  
1578 assessments, revenues, or contract rights or other rights or  
1579 assets to the extent set forth in and in accordance with the  
1580 terms of the pledge or sale contained in the applicable  
1581 financing documents, whether or not any such person or entity  
1582 has notice of such pledge or sale and without the need for any  
1583 physical delivery, recordation, filing, or other action.

1584 5. If ~~As long as~~ the corporation has any bonds outstanding,  
1585 the corporation may not file a voluntary petition under chapter  
1586 9 of the federal Bankruptcy Code or such corresponding chapter  
1587 or sections as may be in effect, ~~from time to time~~, and a public  
1588 officer or any organization, entity, or other person may not  
1589 authorize the corporation to be or become a debtor under chapter  
1590 9 of the federal Bankruptcy Code or such corresponding chapter  
1591 or sections as may be in effect, ~~from time to time~~, during any  
1592 such period.

1593 6. If ordered by a court ~~of competent jurisdiction~~, the  
1594 corporation may assume policies or otherwise provide coverage  
1595 for policyholders of an insurer placed in liquidation under

597-03336-11

20111714c1

1596 chapter 631, under such forms, rates, terms, and conditions as  
1597 the corporation deems appropriate, subject to approval by the  
1598 office.

1599 (x)1. The following records of the corporation are  
1600 confidential and exempt from ~~the provisions of~~ s. 119.07(1) and  
1601 s. 24(a), Art. I of the State Constitution:

1602 a. Underwriting files, except that a policyholder or an  
1603 applicant shall have access to his or her own underwriting  
1604 files. Confidential and exempt underwriting file records may  
1605 also be released to other governmental agencies upon written  
1606 request and demonstration of need; such records held by the  
1607 receiving agency remain confidential and exempt as provided  
1608 herein.

1609 b. Claims files, until termination of all litigation and  
1610 settlement of all claims arising out of the same incident,  
1611 although portions of the claims files may remain exempt, as  
1612 otherwise provided by law. Confidential and exempt claims file  
1613 records may be released to other governmental agencies upon  
1614 written request and demonstration of need; such records held by  
1615 the receiving agency remain confidential and exempt as provided  
1616 herein.

1617 c. Records obtained or generated by an internal auditor  
1618 pursuant to a routine audit, until the audit is completed, or if  
1619 the audit is conducted as part of an investigation, until the  
1620 investigation is closed or ceases to be active. An investigation  
1621 is considered "active" while the investigation is being  
1622 conducted with a reasonable, good faith belief that it could  
1623 lead to the filing of administrative, civil, or criminal  
1624 proceedings.

597-03336-11

20111714c1

1625 d. Matters reasonably encompassed in privileged attorney-  
1626 client communications.

1627 e. Proprietary information licensed to the corporation  
1628 under contract and the contract provides for the confidentiality  
1629 of such proprietary information.

1630 f. All information relating to the medical condition or  
1631 medical status of a corporation employee which is not relevant  
1632 to the employee's capacity to perform his or her duties, except  
1633 as otherwise provided in this paragraph. Information that is  
1634 exempt shall include, but is not limited to, information  
1635 relating to workers' compensation, insurance benefits, and  
1636 retirement or disability benefits.

1637 g. Upon an employee's entrance into the employee assistance  
1638 program, a program to assist any employee who has a behavioral  
1639 or medical disorder, substance abuse problem, or emotional  
1640 difficulty which affects the employee's job performance, all  
1641 records relative to that participation shall be confidential and  
1642 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I  
1643 of the State Constitution, except as otherwise provided in s.  
1644 112.0455(11).

1645 h. Information relating to negotiations for financing,  
1646 reinsurance, depopulation, or contractual services, until the  
1647 conclusion of the negotiations.

1648 i. Minutes of closed meetings regarding underwriting files,  
1649 and minutes of closed meetings regarding an open claims file  
1650 until termination of all litigation and settlement of all claims  
1651 with regard to that claim, except that information otherwise  
1652 confidential or exempt by law shall be redacted.

1653 2. If an ~~authorized~~ insurer is considering underwriting a

597-03336-11

20111714c1

1654 risk insured by the corporation or has removed a risk from the  
1655 corporation, relevant underwriting files and confidential claims  
1656 files may be released to the insurer if ~~provided~~ the insurer  
1657 agrees in writing, notarized and under oath, to maintain the  
1658 confidentiality of such files. If a file is transferred to an  
1659 insurer, that file is no longer a public record because it is  
1660 not held by an agency subject to the provisions of the public  
1661 records law. Underwriting files and confidential claims files  
1662 may also be released to staff and the board of governors of the  
1663 market assistance plan established pursuant to s. 627.3515, who  
1664 must retain the confidentiality of such files, except such files  
1665 may be released to authorized insurers that are considering  
1666 assuming the risks to which the files apply if, ~~provided~~ the  
1667 insurer agrees in writing, notarized and under oath, to maintain  
1668 the confidentiality of such files. Finally, the corporation or  
1669 the board or staff of the market assistance plan may make the  
1670 following information obtained from underwriting files and  
1671 confidential claims files available to licensed general lines  
1672 insurance agents: name, address, and telephone number of the  
1673 residential property owner or insured; location of the risk;  
1674 rating information; loss history; and policy type. The receiving  
1675 licensed general lines insurance agent must retain the  
1676 confidentiality of the information received.

1677 3. A policyholder who has filed suit against the  
1678 corporation has the right to discover the contents of his or her  
1679 own claims file to the same extent that discovery of such  
1680 contents would be available from a private insurer in litigation  
1681 as provided by the Florida Rules of Civil Procedure, the Florida  
1682 Evidence Code, and other applicable law. Pursuant to subpoena, a

597-03336-11

20111714c1

1683 third party has the right to discover the contents of an  
1684 insured's or applicant's underwriting or claims file to the same  
1685 extent that discovery of such contents would be available from a  
1686 private insurer by subpoena as provided by the Florida Rules of  
1687 Civil Procedure, the Florida Evidence Code, and other applicable  
1688 law, and subject to any confidentiality protections requested by  
1689 the corporation and agreed to by the seeking party or ordered by  
1690 the court. The corporation may release confidential underwriting  
1691 and claims file contents and information as it deems necessary  
1692 and appropriate to underwrite or service insurance policies and  
1693 claims, subject to any confidentiality protections deemed  
1694 necessary and appropriate by the corporation.

1695 4. Portions of meetings of the corporation are exempt from  
1696 the provisions of s. 286.011 and s. 24(b), Art. I of the State  
1697 Constitution wherein confidential underwriting files or  
1698 confidential open claims files are discussed. All portions of  
1699 corporation meetings which are closed to the public shall be  
1700 recorded by a court reporter. The court reporter shall record  
1701 the times of commencement and termination of the meeting, all  
1702 discussion and proceedings, the names of all persons present at  
1703 any time, and the names of all persons speaking. No portion of  
1704 any closed meeting shall be off the record. Subject to the  
1705 provisions hereof and s. 119.07(1)(d)-(f), the court reporter's  
1706 notes of any closed meeting shall be retained by the corporation  
1707 for a minimum of 5 years. A copy of the transcript, less any  
1708 exempt matters, of any closed meeting wherein claims are  
1709 discussed shall become public as to individual claims after  
1710 settlement of the claim.

1711 (y) It is the intent of the Legislature that the amendments

597-03336-11

20111714c1

1712 to this subsection enacted in 2002 should, over time, reduce the  
1713 probable maximum windstorm losses in the residual markets and  
1714 ~~should~~ reduce the potential assessments to be levied on property  
1715 insurers and policyholders statewide. ~~In furtherance of this~~  
1716 ~~intent:~~

1717 ~~1. The board shall, on or before February 1 of each year,~~  
1718 ~~provide a report to the President of the Senate and the Speaker~~  
1719 ~~of the House of Representatives showing the reduction or~~  
1720 ~~increase in the 100-year probable maximum loss attributable to~~  
1721 ~~wind-only coverages and the quota share program under this~~  
1722 ~~subsection combined, as compared to the benchmark 100-year~~  
1723 ~~probable maximum loss of the Florida Windstorm Underwriting~~  
1724 ~~Association. For purposes of this paragraph, the benchmark 100-~~  
1725 ~~year probable maximum loss of the Florida Windstorm Underwriting~~  
1726 ~~Association shall be the calculation dated February 2001 and~~  
1727 ~~based on November 30, 2000, exposures. In order to ensure~~  
1728 ~~comparability of data, the board shall use the same methods for~~  
1729 ~~calculating its probable maximum loss as were used to calculate~~  
1730 ~~the benchmark probable maximum loss.~~

1731 ~~2. Beginning December 1, 2010, if the report under~~  
1732 ~~subparagraph 1. for any year indicates that the 100-year~~  
1733 ~~probable maximum loss attributable to wind-only coverages and~~  
1734 ~~the quota share program combined does not reflect a reduction of~~  
1735 ~~at least 25 percent from the benchmark, the board shall reduce~~  
1736 ~~the boundaries of the high-risk area eligible for wind-only~~  
1737 ~~coverages under this subsection in a manner calculated to reduce~~  
1738 ~~such probable maximum loss to an amount at least 25 percent~~  
1739 ~~below the benchmark.~~

1740 ~~3. Beginning February 1, 2015, if the report under~~

597-03336-11

20111714c1

1741 ~~subparagraph 1. for any year indicates that the 100-year~~  
1742 ~~probable maximum loss attributable to wind-only coverages and~~  
1743 ~~the quota share program combined does not reflect a reduction of~~  
1744 ~~at least 50 percent from the benchmark, the boundaries of the~~  
1745 ~~high-risk area eligible for wind-only coverages under this~~  
1746 ~~subsection shall be reduced by the elimination of any area that~~  
1747 ~~is not seaward of a line 1,000 feet inland from the Intracoastal~~  
1748 ~~Waterway.~~

1749 (aa) As a condition of eligibility for coverage by the  
1750 corporation, an applicant or insured of a property located in  
1751 Special Flood Hazard Area, as defined by the National Flood  
1752 Insurance Program, must maintain in effect a separate flood  
1753 insurance policy having coverage limits for building and  
1754 contents at least equal to those provided under the  
1755 corporation's policy, subject to the maximum limits available  
1756 under the National Flood Insurance Program policy. This  
1757 requirement does not apply to an insured who is a tenant or a  
1758 condominium unit owner above the ground floor; a policy issued  
1759 by the corporation which excludes wind and hail coverage; a risk  
1760 that is not eligible for flood coverage under the National Flood  
1761 Insurance Program; or a mobile home that is located more than 2  
1762 miles from open water, including the ocean, the gulf, a bay, a  
1763 river, or the intracoastal waterway. This paragraph applies to  
1764 new policies issued by the corporation on or after January 1,  
1765 2012, and to policies renewed by the corporation on or after  
1766 January 1, 2013. ~~The corporation shall not require the securing~~  
1767 ~~of flood insurance as a condition of coverage if the insured or~~  
1768 ~~applicant executes a form approved by the office affirming that~~  
1769 ~~flood insurance is not provided by the corporation and that if~~

597-03336-11

20111714c1

1770 ~~flood insurance is not secured by the applicant or insured in~~  
1771 ~~addition to coverage by the corporation, the risk will not be~~  
1772 ~~covered for flood damage. A corporation policyholder electing~~  
1773 ~~not to secure flood insurance and executing a form as provided~~  
1774 ~~herein making a claim for water damage against the corporation~~  
1775 ~~shall have the burden of proving the damage was not caused by~~  
1776 ~~flooding. Notwithstanding other provisions of this subsection,~~  
1777 ~~the corporation may deny coverage to an applicant or insured who~~  
1778 ~~refuses to execute the form described herein.~~

1779 ~~(cc) The office may establish a pilot program to offer~~  
1780 ~~optional sinkhole coverage in one or more counties or other~~  
1781 ~~territories of the corporation for the purpose of implementing~~  
1782 ~~s. 627.706, as amended by s. 30, chapter 2007-1, Laws of~~  
1783 ~~Florida. Under the pilot program, the corporation is not~~  
1784 ~~required to issue a notice of nonrenewal to exclude sinkhole~~  
1785 ~~coverage upon the renewal of existing policies, but may exclude~~  
1786 ~~such coverage using a notice of coverage change.~~

1787 Section 3. Subsection (4) of section 627.3511, Florida  
1788 Statutes, is amended to read:

1789 627.3511 Depopulation of Citizens Property Insurance  
1790 Corporation.—

1791 (4) AGENT BONUS.—If ~~When~~ the corporation enters into a  
1792 contractual agreement for a take-out plan that provides a bonus  
1793 to the insurer, the producing agent of record of the corporation  
1794 policy is entitled to retain any unearned commission on such  
1795 policy, and the insurer shall ~~either~~:

1796 (a) Pay to the producing agent ~~of record of the association~~  
1797 ~~policy~~, for the first year, an amount that is the greater of the  
1798 insurer's usual and customary commission for the type of policy

597-03336-11

20111714c1

1799 written or a fee equal to the usual and customary commission of  
1800 the corporation; or

1801 (b) Offer to allow the producing agent ~~of record of the~~  
1802 ~~corporation policy~~ to continue servicing the policy for at least  
1803 ~~a period of not less than~~ 1 year and offer to pay the agent the  
1804 greater of the insurer's or the corporation's usual and  
1805 customary commission for the type of policy written.

1806

1807 If the producing agent is unwilling or unable to accept  
1808 appointment, the new insurer shall pay the agent in accordance  
1809 with paragraph (a). The requirement ~~of this subsection~~ that the  
1810 producing agent of record is entitled to retain the unearned  
1811 commission on an association policy does not apply to a policy  
1812 for which coverage has been provided in the association for 30  
1813 days or less ~~or for which a cancellation notice has been issued~~  
1814 ~~pursuant to s. 627.351(6)(c)10. during the first 30 days of~~  
1815 ~~coverage.~~

1816 Section 4. This act shall take effect upon becoming a law.