

1 A bill to be entitled
2 An act relating to Citizens Property Insurance
3 Corporation; amending s. 627.021, F.S.; revising
4 applicability; amending s. 627.351, F.S.; deleting
5 obsolete language; requiring the Office of Insurance
6 Regulation to approve the method used by Citizens
7 Property Insurance Corporation for valuing the
8 dwelling replacement costs; revising the method for
9 determining the amounts of potential surcharges to be
10 levied against policyholders under certain
11 circumstances; defining the term "primary residence";
12 specifying qualification requirements for certain
13 members of the corporation's board of governors at the
14 time of appointment and reappointment; defining the
15 term "demonstrated expertise in insurance" to specify
16 the qualifications of some appointees for the board
17 membership; revising thresholds for determining
18 eligibility of a risk for coverage by the corporation;
19 providing that policyholders removed from the
20 corporation through an assumption agreement do not
21 remain eligible for coverage from the corporation but
22 may remain on the corporation's policy forms for a
23 specified time for a specified purpose; eliminating
24 costs of reinsurance in rates under certain
25 circumstances; making technical changes; specifying

26 | the qualifications for an appointee as the executive
27 | director of the corporation; providing that eligible
28 | surplus lines insurers may participate, in the same
29 | manner and on the same terms as authorized insurers,
30 | in depopulation, take-out, or keep-out programs
31 | relating to policies removed from the corporation;
32 | providing certain exceptions, conditions, and
33 | requirements relating to such participation by surplus
34 | lines insurers in the corporation's depopulation,
35 | take-out, or keep-out programs; providing thresholds
36 | for eligibility for coverage by the corporation for
37 | risks that are offered coverage from qualified surplus
38 | lines insurers; revising circumstances under which
39 | information from underwriting files and confidential
40 | claims files may be released by the corporation;
41 | revising the list of entities that such files may be
42 | released to; specifying that only the corporation's
43 | transfer of a policy file to an insurer, rather than
44 | the transfer of any file, changes the file's public
45 | record status; providing thresholds for determining
46 | eligibility for coverage by the corporation for
47 | policyholders who receive take-out offers from
48 | authorized insurers; revising the notice that must be
49 | provided by the corporation when insurers request to
50 | take out a policy; amending s. 627.3517, F.S.; making

51 technical changes; amending s. 627.3518, F.S.;

52 deleting obsolete provisions relating to the purpose

53 of the corporation's clearinghouse program and

54 reporting requirements; revising procedures for

55 determining eligibility of a risk for coverage with

56 the corporation; deleting provisions relating to

57 renewal status for coverage by the corporation;

58 providing an effective date.

59

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

61

62 Section 1. Subsection (2) of section 627.021, Florida

63 Statutes, is amended to read:

64 627.021 Scope of this part.—

65 (2) This part does not apply to:

66 (a) Reinsurance, except joint reinsurance as provided in

67 s. 627.311.

68 (b) Insurance against loss of or damage to aircraft, their

69 hulls, accessories, or equipment, or against liability, other

70 than workers' compensation and employer's liability, arising out

71 of the ownership, maintenance, or use of aircraft.

72 (c) Insurance of vessels or craft, their cargoes, marine

73 builders' risks, marine protection and indemnity, or other risks

74 commonly insured under marine insurance policies.

75 (d) Commercial inland marine insurance.

76 (e) Except as may be specifically stated to apply, surplus
 77 lines insurance placed under ~~the provisions of~~ ss. 626.913-
 78 626.937.

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

82 627.351 Insurance risk apportionment plans.—

83 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

87 1. The Legislature finds that private insurers are
 88 unwilling or unable to provide affordable property insurance
 89 coverage in this state to the extent sought and needed. The
 90 absence of affordable property insurance threatens the public
 91 health, safety, and welfare and likewise threatens the economic
 92 health of the state. The state therefore has a compelling public
 93 interest and a public purpose to assist in assuring that
 94 property in the state is insured and that it is insured at
 95 affordable rates so as to facilitate the remediation,
 96 reconstruction, and replacement of damaged or destroyed property
 97 in order to reduce or avoid the negative effects otherwise
 98 resulting to the public health, safety, and welfare, to the
 99 economy of the state, and to the revenues of the state and local
 100 governments which are needed to provide for the public welfare.

101 It is necessary, therefore, to provide affordable property
102 insurance to applicants who are in good faith entitled to
103 procure insurance through the voluntary market but are unable to
104 do so. The Legislature intends, therefore, that affordable
105 property insurance be provided and that it continue to be
106 provided, as long as necessary, through Citizens Property
107 Insurance Corporation, a government entity that is an integral
108 part of the state, and that is not a private insurance company.
109 To that end, the corporation shall strive to increase the
110 availability of affordable property insurance in this state,
111 while achieving efficiencies and economies, and while providing
112 service to policyholders, applicants, and agents which is no
113 less than the quality generally provided in the voluntary
114 market, for the achievement of the foregoing public purposes.
115 Because it is essential for this government entity to have the
116 maximum financial resources to pay claims following a
117 catastrophic hurricane, it is the intent of the Legislature that
118 the corporation continue to be an integral part of the state and
119 that the income of the corporation be exempt from federal income
120 taxation and that interest on the debt obligations issued by the
121 corporation be exempt from federal income taxation.

122 2. The Residential Property and Casualty Joint
123 Underwriting Association originally created by this statute
124 shall be known as the Citizens Property Insurance Corporation.
125 The corporation shall provide insurance for residential and

126 commercial property, for applicants who are entitled, but, in
127 good faith, are unable to procure insurance through the
128 voluntary market. The corporation shall operate pursuant to a
129 plan of operation approved by order of the Financial Services
130 Commission. The plan is subject to continuous review by the
131 commission. The commission may, by order, withdraw approval of
132 all or part of a plan if the commission determines that
133 conditions have changed since approval was granted and that the
134 purposes of the plan require changes in the plan. For the
135 purposes of this subsection, residential coverage includes both
136 personal lines residential coverage, which consists of the type
137 of coverage provided by homeowner, mobile home owner, dwelling,
138 tenant, condominium unit owner, and similar policies; and
139 commercial lines residential coverage, which consists of the
140 type of coverage provided by condominium association, apartment
141 building, and similar policies.

142 3. With respect to coverage for personal lines residential
143 structures, ÷

144 ~~a. Effective January 1, 2014, a structure that has a~~
145 ~~dwelling replacement cost of \$1 million or more, or a single~~
146 ~~condominium unit that has a combined dwelling and contents~~
147 ~~replacement cost of \$1 million or more, is not eligible for~~
148 ~~coverage by the corporation. Such dwellings insured by the~~
149 ~~corporation on December 31, 2013, may continue to be covered by~~
150 ~~the corporation until the end of the policy term. The office~~

151 ~~shall approve the method used by the corporation for valuing the~~
152 ~~dwelling replacement cost for the purposes of this subparagraph.~~
153 ~~If a policyholder is insured by the corporation before being~~
154 ~~determined to be ineligible pursuant to this subparagraph and~~
155 ~~such policyholder files a lawsuit challenging the determination,~~
156 ~~the policyholder may remain insured by the corporation until the~~
157 ~~conclusion of the litigation.~~

158 ~~b. Effective January 1, 2015, a structure that has a~~
159 ~~dwelling replacement cost of \$900,000 or more, or a single~~
160 ~~condominium unit that has a combined dwelling and contents~~
161 ~~replacement cost of \$900,000 or more, is not eligible for~~
162 ~~coverage by the corporation. Such dwellings insured by the~~
163 ~~corporation on December 31, 2014, may continue to be covered by~~
164 ~~the corporation only until the end of the policy term.~~

165 ~~e. Effective January 1, 2016, a structure that has a~~
166 ~~dwelling replacement cost of \$800,000 or more, or a single~~
167 ~~condominium unit that has a combined dwelling and contents~~
168 ~~replacement cost of \$800,000 or more, is not eligible for~~
169 ~~coverage by the corporation. Such dwellings insured by the~~
170 ~~corporation on December 31, 2015, may continue to be covered by~~
171 ~~the corporation until the end of the policy term.~~

172 ~~d. effective January 1, 2017, a structure that has a~~
173 ~~dwelling replacement cost of \$700,000 or more, or a single~~
174 ~~condominium unit that has a combined dwelling and contents~~
175 ~~replacement cost of \$700,000 or more, is not eligible for~~

176 coverage by the corporation. The office shall approve the method
177 used by the corporation for valuing the dwelling replacement
178 cost ~~Such dwellings insured by the corporation on December 31,~~
179 ~~2016, may continue to be covered by the corporation until the~~
180 ~~end of the policy term.~~ The requirements of this subparagraph
181 ~~sub-subparagraphs b.-d.~~ do not apply in counties where the
182 office determines there is not a reasonable degree of
183 competition. In such counties a personal lines residential
184 structure that has a dwelling replacement cost of less than \$1
185 million, or a single condominium unit that has a combined
186 dwelling and contents replacement cost of less than \$1 million,
187 is eligible for coverage by the corporation.

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

197 5.a. Effective January 1, 2009, a personal lines
198 residential structure that is located in the "wind-borne debris
199 region," as defined in s. 1609.2, International Building Code
200 (2006), and that has an insured value on the structure of

201 \$750,000 or more is not eligible for coverage by the corporation
 202 unless the structure has opening protections as required under
 203 the Florida Building Code for a newly constructed residential
 204 structure in that area. A residential structure is deemed to
 205 comply with this sub-subparagraph if it has shutters or opening
 206 protections on all openings and if such opening protections
 207 complied with the Florida Building Code at the time they were
 208 installed.

209 b. Any major structure, as defined in s. 161.54(6)(a),
 210 that is newly constructed, or rebuilt, repaired, restored, or
 211 remodeled to increase the total square footage of finished area
 212 by more than 25 percent, pursuant to a permit applied for after
 213 July 1, 2015, is not eligible for coverage by the corporation if
 214 the structure is seaward of the coastal construction control
 215 line established pursuant to s. 161.053 or is within the Coastal
 216 Barrier Resources System as designated by 16 U.S.C. ss. 3501-
 217 3510.

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

223 (b)1. All insurers authorized to write one or more subject
 224 lines of business in this state are subject to assessment by the
 225 corporation and, for the purposes of this subsection, are

226 referred to collectively as "assessable insurers." Insurers
227 writing one or more subject lines of business in this state
228 pursuant to part VIII of chapter 626 are not assessable
229 insurers; however, insureds who procure one or more subject
230 lines of business in this state pursuant to part VIII of chapter
231 626 are subject to assessment by the corporation and are
232 referred to collectively as "assessable insureds." An insurer's
233 assessment liability begins on the first day of the calendar
234 year following the year in which the insurer was issued a
235 certificate of authority to transact insurance for subject lines
236 of business in this state and terminates 1 year after the end of
237 the first calendar year during which the insurer no longer holds
238 a certificate of authority to transact insurance for subject
239 lines of business in this state.

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

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

250 (II) A commercial lines account for commercial residential

251 and commercial nonresidential policies issued by the corporation
252 which provides coverage for basic property perils on risks that
253 are not located in areas eligible for coverage by the Florida
254 Windstorm Underwriting Association as those areas were defined
255 on January 1, 2002, and for policies that do not provide
256 coverage for the peril of wind on risks that are located in such
257 areas; and

258 (III) A coastal account for personal residential policies
259 and commercial residential and commercial nonresidential
260 property policies issued by the corporation which provides
261 coverage for the peril of wind on risks that are located in
262 areas eligible for coverage by the Florida Windstorm
263 Underwriting Association as those areas were defined on January
264 1, 2002. The corporation may offer policies that provide
265 multiperil coverage and shall offer policies that provide
266 coverage only for the peril of wind for risks located in areas
267 eligible for coverage in the coastal account. Effective July 1,
268 2014, the corporation shall cease offering new commercial
269 residential policies providing multiperil coverage and shall
270 instead continue to offer commercial residential wind-only
271 policies, and may offer commercial residential policies
272 excluding wind. The corporation may, however, continue to renew
273 a commercial residential multiperil policy on a building that is
274 insured by the corporation on June 30, 2014, under a multiperil
275 policy. In issuing multiperil coverage, the corporation may use

276 its approved policy forms and rates for the personal lines
277 account. An applicant or insured who is eligible to purchase a
278 multiperil policy from the corporation may purchase a multiperil
279 policy from an authorized insurer without prejudice to the
280 applicant's or insured's eligibility to prospectively purchase a
281 policy that provides coverage only for the peril of wind from
282 the corporation. An applicant or insured who is eligible for a
283 corporation policy that provides coverage only for the peril of
284 wind may elect to purchase or retain such policy and also
285 purchase or retain coverage excluding wind from an authorized
286 insurer without prejudice to the applicant's or insured's
287 eligibility to prospectively purchase a policy that provides
288 multiperil coverage from the corporation. It is the goal of the
289 Legislature that there be an overall average savings of 10
290 percent or more for a policyholder who currently has a wind-only
291 policy with the corporation, and an ex-wind policy with a
292 voluntary insurer or the corporation, and who obtains a
293 multiperil policy from the corporation. It is the intent of the
294 Legislature that the offer of multiperil coverage in the coastal
295 account be made and implemented in a manner that does not
296 adversely affect the tax-exempt status of the corporation or
297 creditworthiness of or security for currently outstanding
298 financing obligations or credit facilities of the coastal
299 account, the personal lines account, or the commercial lines
300 account. The coastal account must also include quota share

301 primary insurance under subparagraph (c)2. The area eligible for
 302 coverage under the coastal account also includes the area within
 303 Port Canaveral, ~~which is bordered on the south by the City of~~
 304 Cape Canaveral, bordered on the west by the Banana River, and
 305 bordered on the north by Federal Government property.

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

320 c. Creditors of the Residential Property and Casualty
 321 Joint Underwriting Association and the accounts specified in
 322 sub-sub-subparagraphs a.(I) and (II) may have a claim against,
 323 and recourse to, those accounts and no claim against, or
 324 recourse to, the account referred to in sub-sub-subparagraph
 325 a.(III). Creditors of the Florida Windstorm Underwriting

326 Association have a claim against, and recourse to, the account
327 referred to in sub-sub-subparagraph a.(III) and no claim
328 against, or recourse to, the accounts referred to in sub-sub-
329 subparagraphs a.(I) and (II).

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

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

337 f. The income of the corporation may not inure to the
338 benefit of any private person.

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

340 a. After accounting for the Citizens policyholder
341 surcharge imposed under sub-subparagraph i., if the remaining
342 projected deficit incurred in the coastal account in a
343 particular calendar year:

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

349 (II) Exceeds 2 percent of the aggregate statewide direct
350 written premium for the subject lines of business for the prior

351 calendar year, the corporation shall levy regular assessments on
352 assessable insurers under paragraph (q) and on assessable
353 insureds in an amount equal to the greater of 2 percent of the
354 projected deficit or 2 percent of the aggregate statewide direct
355 written premium for the subject lines of business for the prior
356 calendar year. Any remaining projected deficit shall be
357 recovered through emergency assessments under sub-subparagraph
358 d.

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

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

381 c. After accounting for the Citizens policyholder
382 surcharge imposed under sub-subparagraph i., the remaining
383 projected deficits in the personal lines account and in the
384 commercial lines account in a particular calendar year shall be
385 recovered through emergency assessments under sub-subparagraph
386 d.

387 d. Upon a determination by the board of governors that a
388 projected deficit in an account exceeds the amount that is
389 expected to be recovered through regular assessments under sub-
390 subparagraph a., plus the amount that is expected to be
391 recovered through surcharges under sub-subparagraph i., the
392 board, after verification by the office, shall levy emergency
393 assessments for as many years as necessary to cover the
394 deficits, to be collected by assessable insurers and the
395 corporation and collected from assessable insureds upon issuance
396 or renewal of policies for subject lines of business, excluding
397 National Flood Insurance policies. The amount collected in a
398 particular year must be a uniform percentage of that year's
399 direct written premium for subject lines of business and all
400 accounts of the corporation, excluding National Flood Insurance

401 Program policy premiums, as annually determined by the board and
402 verified by the office. The office shall verify the arithmetic
403 calculations involved in the board's determination within 30
404 days after receipt of the information on which the determination
405 was based. The office shall notify assessable insurers and the
406 Florida Surplus Lines Service Office of the date on which
407 assessable insurers shall begin to collect and assessable
408 insureds shall begin to pay such assessment. The date must be at
409 least 90 days after the date the corporation levies emergency
410 assessments pursuant to this sub-subparagraph. Notwithstanding
411 any other provision of law, the corporation and each assessable
412 insurer that writes subject lines of business shall collect
413 emergency assessments from its policyholders without such
414 obligation being affected by any credit, limitation, exemption,
415 or deferment. Emergency assessments levied by the corporation on
416 assessable insureds shall be collected by the surplus lines
417 agent at the time the surplus lines agent collects the surplus
418 lines tax required by s. 626.932 and paid to the Florida Surplus
419 Lines Service Office at the time the surplus lines agent pays
420 the surplus lines tax to that office. The emergency assessments
421 collected shall be transferred directly to the corporation on a
422 periodic basis as determined by the corporation and held by the
423 corporation solely in the applicable account. The aggregate
424 amount of emergency assessments levied for an account in any
425 calendar year may be less than but may not exceed the greater of

426 | 10 percent of the amount needed to cover the deficit, plus
427 | interest, fees, commissions, required reserves, and other costs
428 | associated with financing the original deficit, or 10 percent of
429 | the aggregate statewide direct written premium for subject lines
430 | of business and all accounts of the corporation for the prior
431 | year, plus interest, fees, commissions, required reserves, and
432 | other costs associated with financing the deficit.

433 | e. The corporation may pledge the proceeds of assessments,
434 | projected recoveries from the Florida Hurricane Catastrophe
435 | Fund, other insurance and reinsurance recoverables, policyholder
436 | surcharges and other surcharges, and other funds available to
437 | the corporation as the source of revenue for and to secure bonds
438 | issued under paragraph (q), bonds or other indebtedness issued
439 | under subparagraph (c)3., or lines of credit or other financing
440 | mechanisms issued or created under this subsection, or to retire
441 | any other debt incurred as a result of deficits or events giving
442 | rise to deficits, or in any other way that the board determines
443 | will efficiently recover such deficits. The purpose of the lines
444 | of credit or other financing mechanisms is to provide additional
445 | resources to assist the corporation in covering claims and
446 | expenses attributable to a catastrophe. As used in this
447 | subsection, the term "assessments" includes regular assessments
448 | under sub-subparagraph a. or subparagraph (q)1. and emergency
449 | assessments under sub-subparagraph d. Emergency assessments
450 | collected under sub-subparagraph d. are not part of an insurer's

451 rates, are not premium, and are not subject to premium tax,
452 fees, or commissions; however, failure to pay the emergency
453 assessment shall be treated as failure to pay premium. The
454 emergency assessments shall continue as long as any bonds issued
455 or other indebtedness incurred with respect to a deficit for
456 which the assessment was imposed remain outstanding, unless
457 adequate provision has been made for the payment of such bonds
458 or other indebtedness pursuant to the documents governing such
459 bonds or indebtedness.

460 f. As used in this subsection for purposes of any deficit
461 incurred on or after January 25, 2007, the term "subject lines
462 of business" means insurance written by assessable insurers or
463 procured by assessable insureds for all property and casualty
464 lines of business in this state, but not including workers'
465 compensation or medical malpractice. As used in this sub-
466 subparagraph, the term "property and casualty lines of business"
467 includes all lines of business identified on Form 2, Exhibit of
468 Premiums and Losses, in the annual statement required of
469 authorized insurers under s. 624.424 and any rule adopted under
470 this section, except for those lines identified as accident and
471 health insurance and except for policies written under the
472 National Flood Insurance Program or the Federal Crop Insurance
473 Program. For purposes of this sub-subparagraph, the term
474 "workers' compensation" includes both workers' compensation
475 insurance and excess workers' compensation insurance.

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

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

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

494 (I) The surcharge must ~~shall~~ be levied as a uniform
 495 percentage of the premium for the policy ~~of up to 15 percent of~~
 496 ~~such premium, and must~~ which funds shall be used to offset the
 497 deficit, as follows:

498 (A) If the total number of policyholders of the
 499 corporation is less than 1 million, a surcharge of 15 percent of
 500 the premium.

501 (B) If the total number of policyholders of the
502 corporation is at least 1 million but less than 1.5 million, a
503 surcharge of 20 percent of the premium.

504 (C) If the total number of policyholders of the
505 corporation is at least 1.5 million, a surcharge of 25 percent
506 of the premium.

507 (II) The surcharge is payable upon cancellation or
508 termination of the policy, upon renewal of the policy, or upon
509 issuance of a new policy by the corporation within the first 12
510 months after the date of the levy or the period of time
511 necessary to fully collect the surcharge amount.

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

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

520 j. If the amount of any assessments or surcharges
521 collected from corporation policyholders, assessable insurers or
522 their policyholders, or assessable insureds exceeds the amount
523 of the deficits, such excess amounts shall be remitted to and
524 retained by the corporation in a reserve to be used by the
525 corporation, as determined by the board of governors and

526 approved by the office, to pay claims or reduce any past,
527 present, or future plan-year deficits or to reduce outstanding
528 debt.

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

530 1. Must provide for adoption of residential property and
531 casualty insurance policy forms and commercial residential and
532 nonresidential property insurance forms, which must be approved
533 by the office before use. The corporation shall adopt the
534 following policy forms:

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

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

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

549 d. Personal lines and commercial lines residential
550 property insurance forms that cover the peril of wind only. The

551 forms are applicable only to residential properties located in
 552 areas eligible for coverage under the coastal account referred
 553 to in sub-subparagraph (b)2.a.

554 e. Commercial lines nonresidential property insurance
 555 forms that cover the peril of wind only. The forms are
 556 applicable only to nonresidential properties located in areas
 557 eligible for coverage under the coastal account referred to in
 558 sub-subparagraph (b)2.a.

559 f. The corporation may adopt variations of the policy
 560 forms listed in sub-subparagraphs a.-e. which contain more
 561 restrictive coverage.

562 g. Effective January 1, 2013, the corporation shall offer
 563 a basic personal lines policy similar to an HO-8 policy with
 564 dwelling repair based on common construction materials and
 565 methods.

566 2. Must provide that the corporation adopt a program in
 567 which the corporation and authorized insurers enter into quota
 568 share primary insurance agreements for hurricane coverage, as
 569 defined in s. 627.4025(2)(a), for eligible risks, and adopt
 570 property insurance forms for eligible risks which cover the
 571 peril of wind only.

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

573 (II) "Primary residence" means the residential dwelling
 574 that the insured has represented as homestead on an insurance
 575 application or otherwise to the corporation which is owned by a

576 | citizen of the United States or a lawful permanent resident.

577 | (III)~~(I)~~ "Quota share primary insurance" means an
 578 | arrangement in which the primary hurricane coverage of an
 579 | eligible risk is provided in specified percentages by the
 580 | corporation and an authorized insurer. The corporation and
 581 | authorized insurer are each solely responsible for a specified
 582 | percentage of hurricane coverage of an eligible risk as set
 583 | forth in a quota share primary insurance agreement between the
 584 | corporation and an authorized insurer and the insurance
 585 | contract. The responsibility of the corporation or authorized
 586 | insurer to pay its specified percentage of hurricane losses of
 587 | an eligible risk, as set forth in the agreement, may not be
 588 | altered by the inability of the other party to pay its specified
 589 | percentage of losses. Eligible risks that are provided hurricane
 590 | coverage through a quota share primary insurance arrangement
 591 | must be provided policy forms that set forth the obligations of
 592 | the corporation and authorized insurer under the arrangement,
 593 | clearly specify the percentages of quota share primary insurance
 594 | provided by the corporation and authorized insurer, and
 595 | conspicuously and clearly state that the authorized insurer and
 596 | the corporation may not be held responsible beyond their
 597 | specified percentage of coverage of hurricane losses.

598 | (I)~~(II)~~ "Eligible risks" means personal lines residential
 599 | and commercial lines residential risks that meet the
 600 | underwriting criteria of the corporation and are located in

601 areas that were eligible for coverage by the Florida Windstorm
602 Underwriting Association on January 1, 2002.

603 b. The corporation may enter into quota share primary
604 insurance agreements with authorized insurers at corporation
605 coverage levels of 90 percent and 50 percent.

606 c. If the corporation determines that additional coverage
607 levels are necessary to maximize participation in quota share
608 primary insurance agreements by authorized insurers, the
609 corporation may establish additional coverage levels. However,
610 the corporation's quota share primary insurance coverage level
611 may not exceed 90 percent.

612 d. Any quota share primary insurance agreement entered
613 into between an authorized insurer and the corporation must
614 provide for a uniform specified percentage of coverage of
615 hurricane losses, by county or territory as set forth by the
616 corporation board, for all eligible risks of the authorized
617 insurer covered under the agreement.

618 e. Any quota share primary insurance agreement entered
619 into between an authorized insurer and the corporation is
620 subject to review and approval by the office. However, such
621 agreement shall be authorized only as to insurance contracts
622 entered into between an authorized insurer and an insured who is
623 already insured by the corporation for wind coverage.

624 f. For all eligible risks covered under quota share
625 primary insurance agreements, the exposure and coverage levels

626 for both the corporation and authorized insurers shall be
627 reported by the corporation to the Florida Hurricane Catastrophe
628 Fund. For all policies of eligible risks covered under such
629 agreements, the corporation and the authorized insurer must
630 maintain complete and accurate records for the purpose of
631 exposure and loss reimbursement audits as required by fund
632 rules. The corporation and the authorized insurer shall each
633 maintain duplicate copies of policy declaration pages and
634 supporting claims documents.

635 g. The corporation board shall establish in its plan of
636 operation standards for quota share agreements which ensure that
637 there is no discriminatory application among insurers as to the
638 terms of the agreements, pricing of the agreements, incentive
639 provisions if any, and consideration paid for servicing policies
640 or adjusting claims.

641 h. The quota share primary insurance agreement between the
642 corporation and an authorized insurer must set forth the
643 specific terms under which coverage is provided, including, but
644 not limited to, the sale and servicing of policies issued under
645 the agreement by the insurance agent of the authorized insurer
646 producing the business, the reporting of information concerning
647 eligible risks, the payment of premium to the corporation, and
648 arrangements for the adjustment and payment of hurricane claims
649 incurred on eligible risks by the claims adjuster and personnel
650 of the authorized insurer. Entering into a quota sharing

651 insurance agreement between the corporation and an authorized
652 insurer is voluntary and at the discretion of the authorized
653 insurer.

654 3. May provide that the corporation may employ or
655 otherwise contract with individuals or other entities to provide
656 administrative or professional services that may be appropriate
657 to effectuate the plan. The corporation may borrow funds by
658 issuing bonds or by incurring other indebtedness, and shall have
659 other powers reasonably necessary to effectuate the requirements
660 of this subsection, including, without limitation, the power to
661 issue bonds and incur other indebtedness in order to refinance
662 outstanding bonds or other indebtedness. The corporation may
663 seek judicial validation of its bonds or other indebtedness
664 under chapter 75. The corporation may issue bonds or incur other
665 indebtedness, or have bonds issued on its behalf by a unit of
666 local government pursuant to subparagraph (q)2. in the absence
667 of a hurricane or other weather-related event, upon a
668 determination by the corporation, subject to approval by the
669 office, that such action would enable it to efficiently meet the
670 financial obligations of the corporation and that such
671 financings are reasonably necessary to effectuate the
672 requirements of this subsection. The corporation may take all
673 actions needed to facilitate tax-free status for such bonds or
674 indebtedness, including formation of trusts or other affiliated
675 entities. The corporation may pledge assessments, projected

676 recoveries from the Florida Hurricane Catastrophe Fund, other
677 reinsurance recoverables, policyholder surcharges and other
678 surcharges, and other funds available to the corporation as
679 security for bonds or other indebtedness. In recognition of s.
680 10, Art. I of the State Constitution, prohibiting the impairment
681 of obligations of contracts, it is the intent of the Legislature
682 that no action be taken whose purpose is to impair any bond
683 indenture or financing agreement or any revenue source committed
684 by contract to such bond or other indebtedness.

685 4. Must require that the corporation operate subject to
686 the supervision and approval of a board of governors consisting
687 of nine individuals who are residents of this state and who are
688 from different geographical areas of this ~~the~~ state, one of whom
689 is appointed by the Governor and serves solely to advocate on
690 behalf of the consumer. The appointment of a consumer
691 representative by the Governor is deemed to be within the scope
692 of the exemption provided in s. 112.313(7) (b) and is in addition
693 to the appointments authorized under sub-subparagraph a.

694 a. The Governor, the Chief Financial Officer, the
695 President of the Senate, and the Speaker of the House of
696 Representatives shall each appoint two members of the board. At
697 least one of the two members appointed by each appointing
698 officer must have demonstrated expertise in insurance and be
699 deemed to be within the scope of the exemption provided in s.
700 112.313(7) (b) at the time of appointment or reappointment. The

701 Chief Financial Officer shall designate one of the appointees as
 702 chair. All board members serve at the pleasure of the appointing
 703 officer. All members of the board are subject to removal at will
 704 by the officers who appointed them. All board members, including
 705 the chair, must be appointed to serve for 3-year terms beginning
 706 annually on a date designated by the plan. However, for the
 707 first term beginning on or after July 1, 2009, each appointing
 708 officer shall appoint one member of the board for a 2-year term
 709 and one member for a 3-year term. A board vacancy shall be
 710 filled for the unexpired term by the appointing officer. The
 711 Chief Financial Officer shall appoint a technical advisory group
 712 to provide information and advice to the board in connection
 713 with the board's duties under this subsection. The executive
 714 director and senior managers of the corporation shall be engaged
 715 by the board and serve at the pleasure of the board. Any
 716 executive director appointed on or after July 1, 2006, is
 717 subject to confirmation by the Senate. The executive director is
 718 responsible for employing other staff as the corporation may
 719 require, subject to review and concurrence by the board. As used
 720 in this sub-subparagraph, the term "demonstrated expertise in
 721 insurance" means at least 10 years of responsible experience:
 722 (I) In property and casualty insurance as a full-time
 723 employee, an officer or owner of a licensed insurance agency, or
 724 an insurer writing residential property coverage; or
 725 (II) As an insurance regulator or an executive or officer

726 | of an insurance trade association.

727 | b. The board shall create a Market Accountability Advisory
728 | Committee to assist the corporation in developing awareness of
729 | its rates and its customer and agent service levels in
730 | relationship to the voluntary market insurers writing similar
731 | coverage.

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

748 | (II) The committee shall report to the corporation at each
749 | board meeting on insurance market issues that ~~which~~ may include
750 | rates and rate competition with the voluntary market; service,

751 including policy issuance, claims processing, and general
 752 responsiveness to policyholders, applicants, and agents; and
 753 matters relating to depopulation.

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

756 a. Subject to s. 627.3517, with respect to personal lines
 757 residential risks, if the risk is offered coverage from an
 758 authorized insurer at the insurer's approved rate under a
 759 standard policy including wind coverage or, if consistent with
 760 the insurer's underwriting rules as filed with the office, a
 761 basic policy including wind coverage, for a new application to
 762 the corporation for coverage, the risk is not eligible for any
 763 policy issued by the corporation unless the premium for coverage
 764 from the authorized insurer is more than 20 percent greater than
 765 the premium for comparable coverage from the corporation.

766 (I) Whenever an offer of coverage for a personal lines
 767 residential risk is received for a policyholder of the
 768 corporation at renewal from an authorized insurer, ~~if the offer~~
 769 ~~is equal to or less than the corporation's renewal premium for~~
 770 ~~comparable coverage,~~ the risk is not eligible for coverage with
 771 the corporation unless the premium for coverage from the
 772 authorized insurer is more than the following percent greater
 773 than the renewal premium for comparable coverage from the
 774 corporation:

775 (A) Five percent for policies that renew during 2023.

- 776 (B) Ten percent for policies that renew during 2024.
- 777 (C) Fifteen percent for policies that renew during 2025.
- 778 (D) Twenty percent for polices that renew during 2026 and
- 779 during all subsequent years.

780

781 If the risk is not able to obtain such offers ~~offer~~, the risk is

782 eligible for a standard policy including wind coverage or a

783 basic policy including wind coverage issued by the corporation;

784 however, if the risk could not be insured under a standard

785 policy including wind coverage regardless of market conditions,

786 the risk is eligible for a basic policy including wind coverage

787 unless rejected under subparagraph 8. ~~However, a policyholder~~

788 ~~removed from the corporation through an assumption agreement~~

789 ~~remains eligible for coverage from the corporation until the end~~

790 ~~of the assumption period.~~ The corporation shall determine the

791 type of policy to be provided on the basis of objective

792 standards specified in the underwriting manual and based on

793 generally accepted underwriting practices. A policyholder

794 removed from the corporation through an assumption agreement

795 does not remain eligible for coverage from the corporation.

796 However, any policy removed from the corporation through an

797 assumption agreement may remain on the corporation's policy

798 forms through the end of the assumption period so that the

799 corporation may continue to provide service to the policyholder

800 for the claims that are payable by the assuming insurer.

801 (II)~~(I)~~ If the risk accepts an offer of coverage through
802 the market assistance plan or through a mechanism established by
803 the corporation other than a plan established by s. 627.3518,
804 before a policy is issued to the risk by the corporation or
805 during the first 30 days of coverage by the corporation, and the
806 producing agent who submitted the application to the plan or to
807 the corporation is not currently appointed by the insurer, the
808 insurer shall:

809 (A) Pay to the producing agent of record of the policy for
810 the first year, an amount that is the greater of the insurer's
811 usual and customary commission for the type of policy written or
812 a fee equal to the usual and customary commission of the
813 corporation; or

814 (B) Offer to allow the producing agent of record of the
815 policy to continue servicing the policy for at least 1 year and
816 offer to pay the agent the greater of the insurer's or the
817 corporation's usual and customary commission for the type of
818 policy written.

819
820 If the producing agent is unwilling or unable to accept
821 appointment, the new insurer shall pay the agent in accordance
822 with sub-sub-sub-subparagraph (A).

823 (III)~~(II)~~ If the corporation enters into a contractual
824 agreement for a take-out plan, the producing agent of record of
825 the corporation policy is entitled to retain any unearned

826 | commission on the policy, and the insurer shall:

827 | (A) Pay to the producing agent of record, for the first
 828 | year, an amount that is the greater of the insurer's usual and
 829 | customary commission for the type of policy written or a fee
 830 | equal to the usual and customary commission of the corporation;
 831 | or

832 | (B) Offer to allow the producing agent of record to
 833 | continue servicing the policy for at least 1 year and offer to
 834 | pay the agent the greater of the insurer's or the corporation's
 835 | usual and customary commission for the type of policy written.

836 |
 837 | If the producing agent is unwilling or unable to accept
 838 | appointment, the new insurer shall pay the agent in accordance
 839 | with sub-sub-sub-subparagraph (A).

840 | b. With respect to commercial lines residential risks, for
 841 | a new application to the corporation for coverage, if the risk
 842 | is offered coverage under a policy including wind coverage from
 843 | an authorized insurer at its approved rate, the risk is not
 844 | eligible for a policy issued by the corporation unless the
 845 | premium for coverage from the authorized insurer is more than 20
 846 | ~~15~~ percent greater than the premium for comparable coverage from
 847 | the corporation.

848 | (I) Whenever an offer of coverage for a commercial lines
 849 | residential risk is received for a policyholder of the
 850 | corporation at renewal from an authorized insurer, ~~if the offer~~

851 ~~is equal to or less than the corporation's renewal premium for~~
852 ~~comparable coverage,~~ the risk is not eligible for coverage with
853 the corporation unless the premium for coverage from the
854 authorized insurer is more than the following percent greater
855 than the renewal premium for comparable coverage from the
856 corporation:

857 (A) Five percent for policies that renew during 2023.

858 (B) Ten percent for policies that renew during 2024.

859 (C) Fifteen percent for policies that renew during 2025.

860 (D) Twenty percent for policies that renew during 2026 and
861 during all subsequent years.

862
863 If the risk is not able to obtain any such offers ~~offer~~, the
864 risk is eligible for a policy including wind coverage issued by
865 the corporation. ~~However,~~ A policyholder removed from the
866 corporation through an assumption agreement does not remain
867 ~~remains~~ eligible for coverage from the corporation ~~until the end~~
868 ~~of the assumption period.~~ However, any policy removed from the
869 corporation through an assumption agreement may remain on the
870 corporation's policy forms through the end of the assumption
871 period so that the corporation may continue to provide service
872 to the policyholder for the claims that are payable by the
873 assuming insurer.

874 (II)-(I) If the risk accepts an offer of coverage through
875 the market assistance plan or through a mechanism established by

876 | the corporation other than a plan established by s. 627.3518,
 877 | before a policy is issued to the risk by the corporation or
 878 | during the first 30 days of coverage by the corporation, and the
 879 | producing agent who submitted the application to the plan or the
 880 | corporation is not currently appointed by the insurer, the
 881 | insurer shall:

882 | (A) Pay to the producing agent of record of the policy,
 883 | for the first year, an amount that is the greater of the
 884 | insurer's usual and customary commission for the type of policy
 885 | written or a fee equal to the usual and customary commission of
 886 | the corporation; or

887 | (B) Offer to allow the producing agent of record of the
 888 | policy to continue servicing the policy for at least 1 year and
 889 | offer to pay the agent the greater of the insurer's or the
 890 | corporation's usual and customary commission for the type of
 891 | policy written.

892 |
 893 | If the producing agent is unwilling or unable to accept
 894 | appointment, the new insurer shall pay the agent in accordance
 895 | with sub-sub-sub-subparagraph (A).

896 | (III)~~(II)~~ If the corporation enters into a contractual
 897 | agreement for a take-out plan, the producing agent of record of
 898 | the corporation policy is entitled to retain any unearned
 899 | commission on the policy, and the insurer shall:

900 | (A) Pay to the producing agent of record, for the first

901 year, an amount that is the greater of the insurer's usual and
902 customary commission for the type of policy written or a fee
903 equal to the usual and customary commission of the corporation;
904 or

905 (B) Offer to allow the producing agent of record to
906 continue servicing the policy for at least 1 year and offer to
907 pay the agent the greater of the insurer's or the corporation's
908 usual and customary commission for the type of policy written.
909

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

913 c. For purposes of determining comparable coverage under
914 sub-subparagraphs a. and b., the comparison must be based on
915 those forms and coverages that are reasonably comparable. The
916 corporation may rely on a determination of comparable coverage
917 and premium made by the producing agent who submits the
918 application to the corporation, made in the agent's capacity as
919 the corporation's agent. A comparison may be made solely of the
920 premium with respect to the main building or structure only on
921 the following basis: the same coverage A or other building
922 limits; the same percentage hurricane deductible that applies on
923 an annual basis or that applies to each hurricane for commercial
924 residential property; the same percentage of ordinance and law
925 coverage, if the same limit is offered by both the corporation

926 and the authorized insurer; the same mitigation credits, to the
 927 extent the same types of credits are offered both by the
 928 corporation and the authorized insurer; the same method for loss
 929 payment, such as replacement cost or actual cash value, if the
 930 same method is offered both by the corporation and the
 931 authorized insurer in accordance with underwriting rules; and
 932 any other form or coverage that is reasonably comparable as
 933 determined by the board. If an application is submitted to the
 934 corporation for wind-only coverage in the coastal account, the
 935 premium for the corporation's wind-only policy plus the premium
 936 for the ex-wind policy that is offered by an authorized insurer
 937 to the applicant must be compared to the premium for multiperil
 938 coverage offered by an authorized insurer, subject to the
 939 standards for comparison specified in this subparagraph. If the
 940 corporation or the applicant requests from the authorized
 941 insurer a breakdown of the premium of the offer by types of
 942 coverage so that a comparison may be made by the corporation or
 943 its agent and the authorized insurer refuses or is unable to
 944 provide such information, the corporation may treat the offer as
 945 not being an offer of coverage from an authorized insurer at the
 946 insurer's approved rate.

947 6. Must include rules for classifications of risks and
 948 rates.

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

951 excess of projected losses and expenses for the account
 952 attributable to that year, such excess shall be held in surplus
 953 in the account. Such surplus must be available to defray
 954 deficits in that account as to future years and used for that
 955 purpose before assessing assessable insurers and assessable
 956 insureds as to any calendar year.

957 8. Must provide objective criteria and procedures to be
 958 uniformly applied to all applicants in determining whether an
 959 individual risk is so hazardous as to be uninsurable. In making
 960 this determination and in establishing the criteria and
 961 procedures, the following must be considered:

962 a. Whether the likelihood of a loss for the individual
 963 risk is substantially higher than for other risks of the same
 964 class; and

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

967
 968 The acceptance or rejection of a risk by the corporation must
 969 ~~shall~~ be construed as the private placement of insurance, and
 970 ~~the provisions of chapter 120~~ does ~~de~~ not apply.

971 9. Must provide that the corporation make its best efforts
 972 to procure catastrophe reinsurance at reasonable rates, to cover
 973 its projected 100-year probable maximum loss as determined by
 974 the board of governors. ~~If catastrophe reinsurance is not~~
 975 ~~available at reasonable rates, the corporation need not purchase~~

976 ~~it, but the corporation shall include the costs of reinsurance~~
 977 ~~to cover its projected 100-year probable maximum loss in its~~
 978 ~~rate calculations even if it does not purchase catastrophe~~
 979 ~~reinsurance.~~

980 10. ~~The policies issued by the corporation~~ Must provide
 981 that if the corporation or the market assistance plan obtains an
 982 offer from an authorized insurer to cover the risk at its
 983 approved rates, the risk is no longer eligible for renewal
 984 through the corporation, except as otherwise provided in this
 985 subsection.

986 11. ~~Corporation policies and applications~~ Must include a
 987 notice that the corporation policy could, under this section, be
 988 replaced with a policy issued by an authorized insurer which
 989 does not provide coverage identical to the coverage provided by
 990 the corporation. The notice must also specify that acceptance of
 991 corporation coverage creates a conclusive presumption that the
 992 applicant or policyholder is aware of this potential.

993 12. May establish, subject to approval by the office,
 994 different eligibility requirements and operational procedures
 995 for any line or type of coverage for any specified county or
 996 area if the board determines that such changes are justified due
 997 to the voluntary market being sufficiently stable and
 998 competitive in such area or for such line or type of coverage
 999 and that consumers who, in good faith, are unable to obtain
 1000 insurance through the voluntary market through ordinary methods

1001 continue to have access to coverage from the corporation. If
1002 coverage is sought in connection with a real property transfer,
1003 the requirements and procedures may not provide an effective
1004 date of coverage later than the date of the closing of the
1005 transfer as established by the transferor, the transferee, and,
1006 if applicable, the lender.

1007 13. Must provide that, with respect to the coastal
1008 account, any assessable insurer with a surplus as to
1009 policyholders of \$25 million or less writing 25 percent or more
1010 of its total countrywide property insurance premiums in this
1011 state may petition the office, within the first 90 days of each
1012 calendar year, to qualify as a limited apportionment company. A
1013 regular assessment levied by the corporation on a limited
1014 apportionment company for a deficit incurred by the corporation
1015 for the coastal account may be paid to the corporation on a
1016 monthly basis as the assessments are collected by the limited
1017 apportionment company from its insureds, but a limited
1018 apportionment company must begin collecting the regular
1019 assessments not later than 90 days after the regular assessments
1020 are levied by the corporation, and the regular assessments must
1021 be paid in full within 15 months after being levied by the
1022 corporation. A limited apportionment company shall collect from
1023 its policyholders any emergency assessment imposed under sub-
1024 subparagraph (b)3.d. The plan must provide that, if the office
1025 determines that any regular assessment will result in an

1026 | impairment of the surplus of a limited apportionment company,
 1027 | the office may direct that all or part of such assessment be
 1028 | deferred as provided in subparagraph (q)4. However, an emergency
 1029 | assessment to be collected from policyholders under sub-
 1030 | subparagraph (b)3.d. may not be limited or deferred.

1031 | 14. Must provide that the corporation appoint as its
 1032 | licensed agents only those agents who throughout such
 1033 | appointments also hold an appointment as defined in s. 626.015
 1034 | by an insurer who is authorized to write and is actually writing
 1035 | or renewing personal lines residential property coverage,
 1036 | commercial residential property coverage, or commercial
 1037 | nonresidential property coverage within this ~~the~~ state.

1038 | 15. Must provide a premium payment plan option to its
 1039 | policyholders which, at a minimum, allows for quarterly and
 1040 | semiannual payment of premiums. A monthly payment plan may, but
 1041 | is not required to, be offered.

1042 | 16. Must limit coverage on mobile homes or manufactured
 1043 | homes built before 1994 to actual cash value of the dwelling
 1044 | rather than replacement costs of the dwelling.

1045 | 17. Must provide coverage for manufactured or mobile home
 1046 | dwellings. Such coverage must also include the following
 1047 | attached structures:

1048 | a. Screened enclosures that are aluminum framed or
 1049 | screened enclosures that are not covered by the same or
 1050 | substantially the same materials as those of the primary

1051 dwelling;

1052 b. Carports that are aluminum or carports that are not
 1053 covered by the same or substantially the same materials as those
 1054 of the primary dwelling; and

1055 c. Patios that have a roof covering that is constructed of
 1056 materials that are not the same or substantially the same
 1057 materials as those of the primary dwelling.

1058
 1059 The corporation shall make available a policy for mobile homes
 1060 or manufactured homes for a minimum insured value of at least
 1061 \$3,000.

1062 18. May provide such limits of coverage as the board
 1063 determines, consistent with the requirements of this subsection.

1064 19. May require commercial property to meet specified
 1065 hurricane mitigation construction features as a condition of
 1066 eligibility for coverage.

1067 20. Must provide that new or renewal policies issued by
 1068 the corporation on or after January 1, 2012, which cover
 1069 sinkhole loss do not include coverage for any loss to
 1070 appurtenant structures, driveways, sidewalks, decks, or patios
 1071 that are directly or indirectly caused by sinkhole activity. The
 1072 corporation shall exclude such coverage using a notice of
 1073 coverage change, which may be included with the policy renewal,
 1074 and not by issuance of a notice of nonrenewal of the excluded
 1075 coverage upon renewal of the current policy.

1076 21. As of January 1, 2012, must require that the agent
 1077 obtain from an applicant for coverage from the corporation an
 1078 acknowledgment signed by the applicant, which includes, at a
 1079 minimum, the following statement:

1080 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE

1081 AND ASSESSMENT LIABILITY:

1082 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
 1083 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
 1084 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
 1085 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
 1086 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE
 1087 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT
 1088 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
 1089 LEGISLATURE.

1090 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER
 1091 SURCHARGE, WHICH COULD BE AS HIGH AS 45 PERCENT OF MY PREMIUM,
 1092 BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO
 1093 BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN
 1094 PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE
 1095 WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES
 1096 ARE REGULATED AND APPROVED BY THE STATE.

1097 3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
 1098 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
 1099 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
 1100 FLORIDA LEGISLATURE.

1101 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
1102 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
1103 STATE OF FLORIDA.

1104 a. The corporation shall maintain, in electronic format or
1105 otherwise, a copy of the applicant's signed acknowledgment and
1106 provide a copy of the statement to the policyholder as part of
1107 the first renewal after the effective date of this subparagraph.

1108 b. The signed acknowledgment form creates a conclusive
1109 presumption that the policyholder understood and accepted his or
1110 her potential surcharge and assessment liability as a
1111 policyholder of the corporation.

1112 (d)1. All prospective employees for senior management
1113 positions, as defined by the plan of operation, are subject to
1114 background checks as a prerequisite for employment. The office
1115 shall conduct the background checks pursuant to ss. 624.34,
1116 624.404(3), and 628.261.

1117 2. On or before July 1 of each year, employees of the
1118 corporation must sign and submit a statement attesting that they
1119 do not have a conflict of interest, as defined in part III of
1120 chapter 112. As a condition of employment, all prospective
1121 employees must sign and submit to the corporation a conflict-of-
1122 interest statement.

1123 3. The executive director, senior managers, and members of
1124 the board of governors are subject to part III of chapter 112,
1125 including, but not limited to, the code of ethics and public

1126 disclosure and reporting of financial interests, pursuant to s.
1127 112.3145. For purposes of applying part III of chapter 112 to
1128 activities of the executive director, senior managers, and
1129 members of the board of governors, those persons shall be
1130 considered public officers or employees and the corporation
1131 shall be considered their agency. Notwithstanding s.
1132 112.3143(2), a board member may not vote on any measure that
1133 would inure to his or her special private gain or loss; that he
1134 or she knows would inure to the special private gain or loss of
1135 any principal by whom he or she is retained or to the parent
1136 organization or subsidiary of a corporate principal by which he
1137 or she is retained, other than an agency as defined in s.
1138 112.312; or that he or she knows would inure to the special
1139 private gain or loss of a relative or business associate of the
1140 public officer. Before the vote is taken, such member shall
1141 publicly state to the assembly the nature of his or her interest
1142 in the matter from which he or she is abstaining from voting
1143 and, within 15 days after the vote occurs, disclose the nature
1144 of his or her interest as a public record in a memorandum filed
1145 with the person responsible for recording the minutes of the
1146 meeting, who shall incorporate the memorandum in the minutes.
1147 Senior managers and board members are also required to file such
1148 disclosures with the Commission on Ethics and the Office of
1149 Insurance Regulation. The executive director of the corporation
1150 or his or her designee shall notify each existing and newly

1151 appointed member of the board of governors and senior managers
1152 of their duty to comply with the reporting requirements of part
1153 III of chapter 112. At least quarterly, the executive director
1154 or his or her designee shall submit to the Commission on Ethics
1155 a list of names of the senior managers and members of the board
1156 of governors who are subject to the public disclosure
1157 requirements under s. 112.3145.

1158 4. Notwithstanding s. 112.3148, s. 112.3149, or any other
1159 provision of law, an employee or board member may not knowingly
1160 accept, directly or indirectly, any gift or expenditure from a
1161 person or entity, or an employee or representative of such
1162 person or entity, which has a contractual relationship with the
1163 corporation or who is under consideration for a contract. An
1164 employee or board member who fails to comply with subparagraph
1165 3. or this subparagraph is subject to penalties provided under
1166 ss. 112.317 and 112.3173.

1167 5. Any senior manager of the corporation who is employed
1168 on or after January 1, 2007, regardless of the date of hire, who
1169 subsequently retires or terminates employment is prohibited from
1170 representing another person or entity before the corporation for
1171 2 years after retirement or termination of employment from the
1172 corporation.

1173 6. The executive director, members of the board of
1174 governors, and senior managers of the corporation are prohibited
1175 from having any employment or contractual relationship for 2

1176 | years after retirement from or termination of service to the
 1177 | corporation with an insurer that has entered into a take-out
 1178 | bonus agreement with the corporation.

1179 | 7. At the time of appointment, the executive director must
 1180 | have the experience, character, and qualifications sufficient to
 1181 | qualify as a chief executive officer of an insurer in accordance
 1182 | with s. 624.404(3).

1183 | (n)1. Rates for coverage provided by the corporation must
 1184 | be actuarially sound and subject to s. 627.062, except as
 1185 | otherwise provided in this paragraph. The corporation shall file
 1186 | its recommended rates with the office at least annually. The
 1187 | corporation shall provide any additional information regarding
 1188 | the rates which the office requires. The office shall consider
 1189 | the recommendations of the board and issue a final order
 1190 | establishing the rates for the corporation within 45 days after
 1191 | the recommended rates are filed. The corporation may not pursue
 1192 | an administrative challenge or judicial review of the final
 1193 | order of the office.

1194 | 2. In addition to the rates otherwise determined pursuant
 1195 | to this paragraph, the corporation shall impose and collect an
 1196 | amount equal to the premium tax provided in s. 624.509 to
 1197 | augment the financial resources of the corporation.

1198 | 3. If ~~After~~ the public hurricane loss-projection model
 1199 | under s. 627.06281 is ~~has been~~ found to be accurate and reliable
 1200 | by the Florida Commission on Hurricane Loss Projection

1201 Methodology, it must ~~the model shall~~ be considered when
 1202 establishing the windstorm portion of the corporation's rates.
 1203 The corporation may use the public model results in combination
 1204 with the results of private models to calculate rates for the
 1205 windstorm portion of the corporation's rates. This subparagraph
 1206 does not require or allow the corporation to adopt rates lower
 1207 than the rates otherwise required or allowed by this paragraph.

1208 4. The corporation must make a recommended actuarially
 1209 sound rate filing for each personal and commercial line of
 1210 business it writes.

1211 5. Notwithstanding the board's recommended rates and the
 1212 office's final order regarding the corporation's filed rates
 1213 under subparagraph 1., the corporation shall annually implement
 1214 a rate increase that ~~which~~, except for sinkhole coverage, does
 1215 not exceed the following for any single policy issued by the
 1216 corporation, excluding coverage changes and surcharges:

- 1217 a. Eleven percent for 2022.
- 1218 b. Twelve percent for 2023.
- 1219 c. Thirteen percent for 2024.
- 1220 d. Fourteen percent for 2025.
- 1221 e. Fifteen percent for 2026 and all subsequent years.

1222 6. The corporation may also implement an increase to
 1223 reflect the effect on the corporation of the cash buildup factor
 1224 pursuant to s. 215.555(5) (b) .

1225 7. The corporation's implementation of rates as prescribed

1226 in subparagraph 5. must ~~shall~~ cease for any line of business
1227 written by the corporation upon the corporation's implementation
1228 of actuarially sound rates. Thereafter, the corporation shall
1229 annually make a recommended actuarially sound rate filing for
1230 each commercial and personal line of business the corporation
1231 writes.

1232 (q)1. The corporation shall certify to the office its
1233 needs for annual assessments as to a particular calendar year,
1234 and for any interim assessments that it deems to be necessary to
1235 sustain operations as to a particular year pending the receipt
1236 of annual assessments. Upon verification, the office shall
1237 approve such certification, and the corporation shall levy such
1238 annual or interim assessments. Such assessments shall be
1239 prorated as provided in paragraph (b). The corporation shall
1240 take all reasonable and prudent steps necessary to collect the
1241 amount of assessments due from each assessable insurer,
1242 including, if prudent, filing suit to collect the assessments,
1243 and the office may provide such assistance to the corporation it
1244 deems appropriate. If the corporation is unable to collect an
1245 assessment from any assessable insurer, the uncollected
1246 assessments shall be levied as an additional assessment against
1247 the assessable insurers and any assessable insurer required to
1248 pay an additional assessment as a result of such failure to pay
1249 shall have a cause of action against such nonpaying assessable
1250 insurer. Assessments shall be included as an appropriate factor

1251 in the making of rates. The failure of a surplus lines agent to
1252 collect and remit any regular or emergency assessment levied by
1253 the corporation is considered to be a violation of s. 626.936
1254 and subjects the surplus lines agent to the penalties provided
1255 in that section.

1256 2. The governing body of any unit of local government, any
1257 residents of which are insured by the corporation, may issue
1258 bonds as defined in s. 125.013 or s. 166.101 from time to time
1259 to fund an assistance program, in conjunction with the
1260 corporation, for the purpose of defraying deficits of the
1261 corporation. In order to avoid needless and indiscriminate
1262 proliferation, duplication, and fragmentation of such assistance
1263 programs, any unit of local government, any residents of which
1264 are insured by the corporation, may provide for the payment of
1265 losses, regardless of whether or not the losses occurred within
1266 or outside of the territorial jurisdiction of the local
1267 government. Revenue bonds under this subparagraph may not be
1268 issued until validated pursuant to chapter 75, unless a state of
1269 emergency is declared by executive order or proclamation of the
1270 Governor pursuant to s. 252.36 making such findings as are
1271 necessary to determine that it is in the best interests of, and
1272 necessary for, the protection of the public health, safety, and
1273 general welfare of residents of this state and declaring it an
1274 essential public purpose to permit certain municipalities or
1275 counties to issue such bonds as will permit relief to claimants

1276 and policyholders of the corporation. Any such unit of local
 1277 government may enter into such contracts with the corporation
 1278 and with any other entity created pursuant to this subsection as
 1279 are necessary to carry out this paragraph. Any bonds issued
 1280 under this subparagraph shall be payable from and secured by
 1281 moneys received by the corporation from emergency assessments
 1282 under sub-subparagraph (b)3.d., and assigned and pledged to or
 1283 on behalf of the unit of local government for the benefit of the
 1284 holders of such bonds. The funds, credit, property, and taxing
 1285 power of the state or of the unit of local government may ~~shall~~
 1286 not be pledged for the payment of such bonds.

1287 3.a. The corporation shall adopt one or more programs
 1288 subject to approval by the office for the reduction of both new
 1289 and renewal writings in the corporation. Beginning January 1,
 1290 2008, any program the corporation adopts for the payment of
 1291 bonuses to an insurer for each risk the insurer removes from the
 1292 corporation shall comply with s. 627.3511(2) and may not exceed
 1293 the amount referenced in s. 627.3511(2) for each risk removed.
 1294 The corporation may consider any prudent and not unfairly
 1295 discriminatory approach to reducing corporation writings, and
 1296 may adopt a credit against assessment liability or other
 1297 liability that provides an incentive for insurers to take risks
 1298 out of the corporation and to keep risks out of the corporation
 1299 by maintaining or increasing voluntary writings in counties or
 1300 areas in which corporation risks are highly concentrated and a

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1301 program to provide a formula under which an insurer voluntarily
1302 taking risks out of the corporation by maintaining or increasing
1303 voluntary writings will be relieved wholly or partially from
1304 assessments under sub-subparagraph (b) 3.a. However, any "take-
1305 out bonus" or payment to an insurer must be conditioned on the
1306 property being insured for at least 5 years by the insurer,
1307 unless canceled or nonrenewed by the policyholder. If the policy
1308 is canceled or nonrenewed by the policyholder before the end of
1309 the 5-year period, the amount of the take-out bonus must be
1310 prorated for the time period the policy was insured. When the
1311 corporation enters into a contractual agreement for a take-out
1312 plan, the producing agent of record of the corporation policy is
1313 entitled to retain any unearned commission on such policy, and
1314 the insurer shall either:

1315 (I) Pay to the producing agent of record of the policy,
1316 for the first year, an amount which is the greater of the
1317 insurer's usual and customary commission for the type of policy
1318 written or a policy fee equal to the usual and customary
1319 commission of the corporation; or

1320 (II) Offer to allow the producing agent of record of the
1321 policy to continue servicing the policy for a period of not less
1322 than 1 year and offer to pay the agent the insurer's usual and
1323 customary commission for the type of policy written. If the
1324 producing agent is unwilling or unable to accept appointment by
1325 the new insurer, the new insurer shall pay the agent in

1326 accordance with sub-sub-subparagraph (I).

1327 b. Any credit or exemption from regular assessments
 1328 adopted under this subparagraph shall last no longer than the 3
 1329 years following the cancellation or expiration of the policy by
 1330 the corporation. With the approval of the office, the board may
 1331 extend such credits for an additional year if the insurer
 1332 guarantees an additional year of renewability for all policies
 1333 removed from the corporation, or for 2 additional years if the
 1334 insurer guarantees 2 additional years of renewability for all
 1335 policies so removed.

1336 c. There shall be no credit, limitation, exemption, or
 1337 deferment from emergency assessments to be collected from
 1338 policyholders pursuant to sub-subparagraph (b)3.d.

1339 d. Notwithstanding any other law, for purposes of a
 1340 depopulation, take-out, or keep-out program adopted by the
 1341 corporation, including an initial or renewal offer of coverage
 1342 made to a policyholder removed from the corporation pursuant to
 1343 such program, an eligible surplus lines insurer may participate
 1344 in the program in the same manner and on the same terms as an
 1345 authorized insurer, except as provided under this sub-
 1346 subparagraph.

1347 (I) To qualify for participation, the surplus lines
 1348 insurer must first obtain approval from the office for its
 1349 depopulation, take-out, or keep-out plan and then comply with
 1350 all of the corporation's requirements for the plan applicable to

1351 admitted insurers and with all statutory provisions applicable
1352 to the removal of policies from the corporation.

1353 (II) In considering a surplus lines insurer's request for
1354 approval for its plan, the office shall determine whether the
1355 surplus lines insurer meets the following requirements:

1356 (A) Maintains a surplus of \$50 million on a company or
1357 pooled basis;

1358 (B) Has a superior, excellent, exceptional, or equivalent
1359 financial strength rating by a rating agency acceptable to the
1360 office;

1361 (C) Maintains reserves, surplus, reinsurance, and
1362 reinsurance equivalents sufficient to cover the insurer's 100-
1363 year probable maximum hurricane loss at least twice in a single
1364 hurricane season and submits such reinsurance to the office to
1365 review for purposes of the take-out;

1366 (D) Provides prominent notice to the policyholder before
1367 the assumption of the policy that surplus lines policies are not
1368 provided coverage by the Florida Insurance Guaranty Association
1369 and provides an outline of any substantial differences in
1370 coverage between the existing policy and the policy being
1371 offered to the policyholder; and

1372 (E) Provides policy coverage similar to that provided by
1373 the corporation.

1374 (III) To obtain approval for a plan, the surplus lines
1375 insurer must file the following with the office:

1376 (A) Information requested by the office to demonstrate
1377 compliance with s. 624.404(3), including biographical
1378 affidavits, fingerprints processed pursuant to s. 624.34, and
1379 the results of criminal history records checks for officers and
1380 directors of the insurer and its parent or holding company;
1381 (B) A service-of-process consent and agreement form
1382 executed by the insurer;
1383 (C) Proof that the insurer has been an eligible or
1384 authorized insurer for at least 3 years;
1385 (D) A duly authenticated copy of the insurer's current
1386 audited financial statement, in English, which, in the case of
1387 statements originally made in the currencies of other countries,
1388 expresses all monetary values in United States dollars, at an
1389 exchange rate then current and shown in the statement, and
1390 including any additional information relative to the insurer as
1391 the office may request;
1392 (E) A complete certified copy of the latest official
1393 financial statement required by the insurer's domiciliary state,
1394 if different from the statement required by sub-sub-sub-
1395 subparagraph (D); and
1396 (F) If applicable, a copy of the United States trust
1397 account agreement.
1398
1399 This sub-sub-subparagraph does not subject any surplus lines
1400 insurer to requirements in addition to part VIII of chapter 626.

1401 Surplus lines brokers making an offer of coverage under this
 1402 sub-sub-subparagraph are not required to comply with s.
 1403 626.916(1) (a), (b), (c), or (e).

1404 (IV) Within 10 days after the date of assumption, the
 1405 surplus lines insurer assuming policies from the corporation
 1406 shall remit to the Bureau of Collateral Management within the
 1407 Department of Financial Services a special deposit equal to the
 1408 unearned premium net of unearned commissions on the assumed
 1409 block of business. The surplus lines insurer shall submit to the
 1410 office, along with the special deposit, an accounting of the
 1411 policies assumed and the amount of unearned premium for such
 1412 policies and a sworn affidavit attesting to the accuracy of the
 1413 accounting by an officer of the surplus lines insurer.
 1414 Thereafter, the surplus lines insurer shall make a filing within
 1415 10 days after the end of each calendar quarter attesting to the
 1416 unearned premium in force for the previous quarter on policies
 1417 assumed from the corporation and shall submit additional funds
 1418 with that filing if the special deposit is insufficient to cover
 1419 the unearned premium on assumed policies, or shall receive a
 1420 return of funds within 60 days if the special deposit exceeds
 1421 the amount of unearned premium required for assumed policies.
 1422 The special deposit is an asset of the surplus lines insurer
 1423 which is held by the department for the benefit of state
 1424 policyholders of the surplus lines insurer in the event of the
 1425 insolvency of the surplus lines insurer. If an order of

1426 liquidation is entered in any state against the surplus lines
1427 insurer, the department may use the special deposit for payment
1428 of unearned premium or policy claims, return all or part of the
1429 deposit to the domiciliary receiver, or use the funds in
1430 accordance with any action authorized under part I of chapter
1431 631 or in compliance with any order of a court having
1432 jurisdiction over the insolvency.

1433 (V) In advance of a surplus lines insurer assuming a
1434 policy, surplus lines brokers representing a surplus lines
1435 insurer on a take-out program shall obtain confirmation, in
1436 written or e-mail form, from each producing agent stating that
1437 the agent is willing to participate in the take-out program with
1438 the surplus lines insurer engaging in the take-out program. The
1439 take-out program is also subject to s. 627.3517. If a
1440 policyholder is selected for removal from the corporation by a
1441 surplus lines insurer and an authorized insurer, the corporation
1442 must give priority to the offer of coverage from the authorized
1443 insurer.

1444 (VI) (A) A risk that has a dwelling replacement cost of
1445 \$700,000 or more or a single condominium unit that has a
1446 combined dwelling and contents replacement cost of \$700,000 or
1447 more is not eligible for coverage by the corporation if it is
1448 offered comparable coverage from a qualified surplus lines
1449 insurer at a premium no greater than 15 percent above the
1450 premium charged by the corporation.

1451 (B) A risk that has a dwelling replacement cost below
1452 \$700,000 or a single condominium unit that has a combined
1453 dwelling and contents replacement cost below \$700,000 remains
1454 eligible for coverage by the corporation if it is offered
1455 coverage from a qualified surplus lines insurer.

1456 4. The plan shall provide for the deferment, in whole or
1457 in part, of the assessment of an assessable insurer, other than
1458 an emergency assessment collected from policyholders pursuant to
1459 sub-subparagraph (b)3.d., if the office finds that payment of
1460 the assessment would endanger or impair the solvency of the
1461 insurer. In the event an assessment against an assessable
1462 insurer is deferred in whole or in part, the amount by which
1463 such assessment is deferred may be assessed against the other
1464 assessable insurers in a manner consistent with the basis for
1465 assessments set forth in paragraph (b).

1466 5. Effective July 1, 2007, in order to evaluate the costs
1467 and benefits of approved take-out plans, if the corporation pays
1468 a bonus or other payment to an insurer for an approved take-out
1469 plan, it shall maintain a record of the address or such other
1470 identifying information on the property or risk removed in order
1471 to track if and when the property or risk is later insured by
1472 the corporation.

1473 6. Any policy taken out, assumed, or removed from the
1474 corporation is, as of the effective date of the take-out,
1475 assumption, or removal, direct insurance issued by the insurer

1476 and not by the corporation, even if the corporation continues to
1477 service the policies. This subparagraph applies to policies of
1478 the corporation and not policies taken out, assumed, or removed
1479 from any other entity.

1480 7. For a policy taken out, assumed, or removed from the
1481 corporation, the insurer may, for a period of no more than 3
1482 years, continue to use any of the corporation's policy forms or
1483 endorsements that apply to the policy taken out, removed, or
1484 assumed without obtaining approval from the office for use of
1485 such policy form or endorsement.

1486 (x)1. The following records of the corporation are
1487 confidential and exempt from ~~the provisions of~~ s. 119.07(1) and
1488 s. 24(a), Art. I of the State Constitution:

1489 a. Underwriting files, except that a policyholder or an
1490 applicant shall have access to his or her own underwriting
1491 files. Confidential and exempt underwriting file records may
1492 also be released to other governmental agencies upon written
1493 request and demonstration of need; such records held by the
1494 receiving agency remain confidential and exempt as provided
1495 herein.

1496 b. Claims files, until termination of all litigation and
1497 settlement of all claims arising out of the same incident,
1498 although portions of the claims files may remain exempt, as
1499 otherwise provided by law. Confidential and exempt claims file
1500 records may be released to other governmental agencies upon

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1501 written request and demonstration of need; such records held by
1502 the receiving agency remain confidential and exempt as provided
1503 herein.

1504 c. Records obtained or generated by an internal auditor
1505 pursuant to a routine audit, until the audit is completed, or if
1506 the audit is conducted as part of an investigation, until the
1507 investigation is closed or ceases to be active. An investigation
1508 is considered "active" while the investigation is being
1509 conducted with a reasonable, good faith belief that it could
1510 lead to the filing of administrative, civil, or criminal
1511 proceedings.

1512 d. Matters reasonably encompassed in privileged attorney-
1513 client communications.

1514 e. Proprietary information licensed to the corporation
1515 under contract and the contract provides for the confidentiality
1516 of such proprietary information.

1517 f. All information relating to the medical condition or
1518 medical status of a corporation employee which is not relevant
1519 to the employee's capacity to perform his or her duties, except
1520 as otherwise provided in this paragraph. Information that is
1521 exempt includes ~~shall include~~, but is not limited to,
1522 information relating to workers' compensation, insurance
1523 benefits, and retirement or disability benefits.

1524 g. Upon an employee's entrance into the employee
1525 assistance program, a program to assist any employee who has a

1526 behavioral or medical disorder, substance abuse problem, or
 1527 emotional difficulty that affects the employee's job
 1528 performance, all records relative to that participation are
 1529 ~~shall be~~ confidential and exempt from ~~the provisions of~~ s.
 1530 119.07(1) and s. 24(a), Art. I of the State Constitution, except
 1531 as otherwise provided in s. 112.0455(11).

1532 h. Information relating to negotiations for financing,
 1533 reinsurance, depopulation, or contractual services, until the
 1534 conclusion of the negotiations.

1535 i. Minutes of closed meetings regarding underwriting
 1536 files, and minutes of closed meetings regarding an open claims
 1537 file until termination of all litigation and settlement of all
 1538 claims with regard to that claim, except that information
 1539 otherwise confidential or exempt by law must ~~shall~~ be redacted.

1540 2. If an authorized insurer, a reinsurance intermediary,
 1541 an eligible surplus lines insurer, or an entity that has filed
 1542 an application with the office for licensure as a property and
 1543 casualty insurer in this state is considering writing or
 1544 assisting in the underwriting of a risk insured by the
 1545 corporation, relevant information from both the underwriting
 1546 files and confidential claims files may be released to the
 1547 insurer, reinsurance intermediary, eligible surplus lines
 1548 insurer, or entity that has been created to seek authority to
 1549 write property and casualty insurance in this state, provided
 1550 that the recipient insurer agrees in writing, notarized and

1551 under oath, to maintain the confidentiality of such files. If a
1552 policy file is transferred to an insurer, that policy file is no
1553 longer a public record because it is not held by an agency
1554 subject to ~~the provisions of~~ the public records law.
1555 Underwriting files and confidential claims files may also be
1556 released to staff and the board of governors of the market
1557 assistance plan established pursuant to s. 627.3515, who must
1558 retain the confidentiality of such files, except such files may
1559 be released to authorized insurers that are considering assuming
1560 the risks to which the files apply, provided the insurer agrees
1561 in writing, notarized and under oath, to maintain the
1562 confidentiality of such files. Finally, the corporation or the
1563 board or staff of the market assistance plan may make the
1564 following information obtained from underwriting files and
1565 confidential claims files available to an entity that has
1566 obtained a permit to become an authorized insurer, a reinsurer
1567 that may provide reinsurance under s. 624.610, a licensed
1568 reinsurance broker, a licensed rating organization, a modeling
1569 company, or a licensed general lines insurance agent: name,
1570 address, and telephone number of the residential property owner
1571 or insured; location of the risk; rating information; loss
1572 history; and policy type. The receiving person must retain the
1573 confidentiality of the information received and may use the
1574 information only for the purposes of developing a take-out plan
1575 or a rating plan to be submitted to the office for approval or

1576 otherwise analyzing the underwriting of a risk or risks insured
1577 by the corporation on behalf of the private insurance market. A
1578 licensed general lines insurance agent may not use such
1579 information for the direct solicitation of policyholders.

1580 3. A policyholder who has filed suit against the
1581 corporation has the right to discover the contents of his or her
1582 own claims file to the same extent that discovery of such
1583 contents would be available from a private insurer in litigation
1584 as provided by the Florida Rules of Civil Procedure, the Florida
1585 Evidence Code, and other applicable law. Pursuant to subpoena, a
1586 third party has the right to discover the contents of an
1587 insured's or applicant's underwriting or claims file to the same
1588 extent that discovery of such contents would be available from a
1589 private insurer by subpoena as provided by the Florida Rules of
1590 Civil Procedure, the Florida Evidence Code, and other applicable
1591 law, and subject to any confidentiality protections requested by
1592 the corporation and agreed to by the seeking party or ordered by
1593 the court. The corporation may release confidential underwriting
1594 and claims file contents and information as it deems necessary
1595 and appropriate to underwrite or service insurance policies and
1596 claims, subject to any confidentiality protections deemed
1597 necessary and appropriate by the corporation.

1598 4. Portions of meetings of the corporation are exempt from
1599 ~~the provisions of~~ s. 286.011 and s. 24(b), Art. I of the State
1600 Constitution wherein confidential underwriting files or

1601 confidential open claims files are discussed. All portions of
 1602 corporation meetings which are closed to the public shall be
 1603 recorded by a court reporter. The court reporter shall record
 1604 the times of commencement and termination of the meeting, all
 1605 discussion and proceedings, the names of all persons present at
 1606 any time, and the names of all persons speaking. No portion of
 1607 any closed meeting shall be off the record. Subject to the
 1608 provisions hereof and s. 119.07(1)(d)-(f), the court reporter's
 1609 notes of any closed meeting shall be retained by the corporation
 1610 for a minimum of 5 years. A copy of the transcript, less any
 1611 exempt matters, of any closed meeting wherein claims are
 1612 discussed shall become public as to individual claims after
 1613 settlement of the claim.

1614 (ii) The corporation shall revise the programs adopted
 1615 pursuant to sub-subparagraph (q)3.a. for personal lines
 1616 residential policies to maximize policyholder options and
 1617 encourage increased participation by insurers and agents. After
 1618 January 1, 2017, a policy may not be taken out of the
 1619 corporation unless the provisions of this paragraph are met.

1620 1. The corporation must publish a periodic schedule of
 1621 cycles during which an insurer may identify, and notify the
 1622 corporation of, policies that the insurer is requesting to take
 1623 out. A request must include a description of the coverage
 1624 offered and an estimated premium and must be submitted to the
 1625 corporation in a form and manner prescribed by the corporation.

1626 2. The corporation must maintain and make available to the
1627 agent of record a consolidated list of all insurers requesting
1628 to take out a policy. The list must include a description of the
1629 coverage offered and the estimated premium for each take-out
1630 request.

1631 3. If a policyholder receives a take-out offer from an
1632 authorized insurer, the risk is no longer eligible for coverage
1633 with the corporation unless the premium for coverage from the
1634 authorized insurer is more than the following percent greater
1635 than the renewal premium for comparable coverage from the
1636 corporation:

1637 a. Five percent for policies effective on or after January
1638 1, 2023.

1639 b. Ten percent for policies effective on or after January
1640 1, 2024.

1641 c. Fifteen percent for policies effective on or after
1642 January 1, 2025.

1643 d. Twenty percent for policies effective on or after
1644 January 1, 2026 and in all subsequent years.

1645 ~~4.3.~~ The corporation must provide written notice to the
1646 policyholder and the agent of record regarding all insurers
1647 requesting to take out the policy, which ~~and regarding the~~
1648 ~~policyholder's option to accept a take-out offer or to reject~~
1649 ~~all take-out offers and to remain with the corporation. The~~
1650 ~~notice~~ must be in a format prescribed by the corporation and

1651 include, for each take-out offer:
 1652 a. The amount of the estimated premium;
 1653 b. A description of the coverage; and
 1654 c. A comparison of the estimated premium and coverage
 1655 offered by the insurer to the estimated premium and coverage
 1656 provided by the corporation.

1657 Section 3. Section 627.3517, Florida Statutes, is amended
 1658 to read:

1659 627.3517 Consumer choice.—No provision of s. 627.351, s.
 1660 627.3511, or s. 627.3515 shall be construed to impair the right
 1661 of any insurance risk apportionment plan policyholder, upon
 1662 receipt of any keep-out ~~keepout~~ or take-out offer, to retain his
 1663 or her current agent, so long as that agent is duly licensed and
 1664 appointed by the insurance risk apportionment plan or otherwise
 1665 authorized to place business with the insurance risk
 1666 apportionment plan. This right may ~~shall~~ not be canceled,
 1667 suspended, impeded, abridged, or otherwise compromised by any
 1668 rule, plan of operation, or depopulation plan, whether through
 1669 keep-out ~~keepout~~, take-out, midterm assumption, or any other
 1670 means, of any insurance risk apportionment plan or depopulation
 1671 plan, including, but not limited to, those described in s.
 1672 627.351, s. 627.3511, or s. 627.3515. The commission shall adopt
 1673 any rules necessary to cause any insurance risk apportionment
 1674 plan or market assistance plan under such sections to
 1675 demonstrate that the operations of the plan do not interfere

1676 with, promote, or allow interference with the rights created
 1677 under this section. If the policyholder's current agent is
 1678 unable or unwilling to be appointed with the insurer making the
 1679 take-out or keep-out ~~keepout~~ offer, the policyholder is ~~shall~~
 1680 not ~~be~~ disqualified from participation in the appropriate
 1681 insurance risk apportionment plan because of an offer of
 1682 coverage in the voluntary market. An offer of full property
 1683 insurance coverage by the insurer currently insuring either the
 1684 ex-wind or wind-only coverage on the policy to which the offer
 1685 applies is ~~shall~~ not ~~be~~ considered a take-out or keep-out
 1686 ~~keepout~~ offer. Any rule, plan of operation, or plan of
 1687 depopulation, through keep-out ~~keepout~~, take-out, midterm
 1688 assumption, or any other means, of any property insurance risk
 1689 apportionment plan under s. 627.351(2) or (6) is subject to ss.
 1690 627.351(2)(b) and (6)(c) and 627.3511(4).

1691 Section 4. Section 627.3518, Florida Statutes, is amended
 1692 to read:

1693 627.3518 Citizens Property Insurance Corporation
 1694 policyholder eligibility clearinghouse program. ~~The purpose of~~
 1695 ~~this section is to provide a framework for the corporation to~~
 1696 ~~implement a clearinghouse program by January 1, 2014.~~

1697 (1) As used in this section, the term:

1698 (a) "Corporation" means Citizens Property Insurance
 1699 Corporation.

1700 (b) "Exclusive agent" means any licensed insurance agent

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1701 that has, by contract, agreed to act exclusively for one company
1702 or group of affiliated insurance companies and is disallowed by
1703 the provisions of that contract to directly write for any other
1704 unaffiliated insurer absent express consent from the company or
1705 group of affiliated insurance companies.

1706 (c) "Independent agent" means any licensed insurance agent
1707 not described in paragraph (b).

1708 (d) "Program" means the clearinghouse created under this
1709 section.

1710 (2) In order to confirm eligibility with the corporation
1711 and to enhance access of new applicants for coverage and
1712 existing policyholders of the corporation to offers of coverage
1713 from authorized insurers, the corporation shall establish a
1714 program for personal residential risks in order to facilitate
1715 the diversion of ineligible applicants and existing
1716 policyholders from the corporation into the voluntary insurance
1717 market. The corporation shall also develop appropriate
1718 procedures for facilitating the diversion of ineligible
1719 applicants and existing policyholders for commercial residential
1720 coverage into the private insurance market ~~and shall report such~~
1721 ~~procedures to the President of the Senate and the Speaker of the~~
1722 ~~House of Representatives by January 1, 2014.~~

1723 (3) The corporation board shall establish the
1724 clearinghouse program as an organizational unit within the
1725 corporation. The program shall have all the rights and

1726 responsibilities in carrying out its duties as a licensed
1727 general lines agent, but may not be required to employ or engage
1728 a licensed general lines agent or to maintain an insurance
1729 agency license to carry out its activities in the solicitation
1730 and placement of insurance coverage. In establishing the
1731 program, the corporation may:

1732 (a) Require all new applications, and all policies due for
1733 renewal, to be submitted for coverage to the program in order to
1734 facilitate obtaining an offer of coverage from an authorized
1735 insurer before binding or renewing coverage by the corporation.

1736 (b) Employ or otherwise contract with individuals or other
1737 entities for appropriate administrative or professional services
1738 to effectuate the plan within the corporation in accordance with
1739 the applicable purchasing requirements under s. 627.351.

1740 (c) Enter into contracts with any authorized insurer to
1741 participate in the program and accept an appointment by such
1742 insurer.

1743 (d) Provide funds to operate the program. Insurers and
1744 agents participating in the program are not required to pay a
1745 fee to offset or partially offset the cost of the program or use
1746 the program for renewal of policies initially written through
1747 the clearinghouse.

1748 (e) Develop an enhanced application that includes
1749 information to assist private insurers in determining whether to
1750 make an offer of coverage through the program.

1751 (f) For personal lines residential risks, require, before
1752 approving all new applications for coverage by the corporation,
1753 that every application be subject to a period of 2 business days
1754 when any insurer participating in the program may select the
1755 application for coverage. The insurer may issue a binder on any
1756 policy selected for coverage for a period of at least 30 days
1757 but not more than 60 days.

1758 (4) Any authorized insurer may participate in the program;
1759 however, participation is not mandatory for any insurer.
1760 Insurers making offers of coverage to new applicants or renewal
1761 policyholders through the program:

1762 (a) May not be required to individually appoint any agent
1763 whose customer is underwritten and bound through the program.
1764 Notwithstanding s. 626.112, insurers are not required to appoint
1765 any agent on a policy underwritten through the program for as
1766 long as that policy remains with the insurer. Insurers may, at
1767 their election, appoint any agent whose customer is initially
1768 underwritten and bound through the program. In the event an
1769 insurer accepts a policy from an agent who is not appointed
1770 pursuant to this paragraph, and thereafter elects to accept a
1771 policy from such agent, the provisions of s. 626.112 requiring
1772 appointment apply to the agent.

1773 (b) Must enter into a limited agency agreement with each
1774 agent that is not appointed in accordance with paragraph (a) and
1775 whose customer is underwritten and bound through the program.

1776 (c) Must enter into its standard agency agreement with
 1777 each agent whose customer is underwritten and bound through the
 1778 program when that agent has been appointed by the insurer
 1779 pursuant to s. 626.112.

1780 (d) Must comply with s. 627.4133(2).

1781 (e) May participate through their single-designated
 1782 managing general agent or broker; however, the provisions of
 1783 paragraph (6)(a) regarding ownership, control, and use of the
 1784 expirations continue to apply.

1785 (f) Must pay to the producing agent a commission equal to
 1786 that paid by the corporation or the usual and customary
 1787 commission paid by the insurer for that line of business,
 1788 whichever is greater.

1789 (5) Notwithstanding s. 627.3517, any applicant for new
 1790 coverage from the corporation is not eligible for coverage from
 1791 the corporation if provided an offer of coverage from an
 1792 authorized insurer through the program at a premium that is at
 1793 or below the eligibility threshold established in s.
 1794 627.351(6)(c)5.a. Whenever an offer of coverage for a personal
 1795 lines risk is received for a policyholder of the corporation at
 1796 renewal from an authorized insurer through the program, ~~if the~~
 1797 ~~offer is equal to or less than the corporation's renewal premium~~
 1798 ~~for comparable coverage,~~ the risk is not eligible for coverage
 1799 with the corporation if the offer is at or below the eligibility
 1800 threshold specified in s. 627.351(6)(c)5.a. In the event that an

1801 offer of coverage for a new applicant is received from an
 1802 authorized insurer through the program, and the premium offered
 1803 exceeds the eligibility threshold specified ~~contained~~ in s.
 1804 627.351(6)(c)5.a., the applicant or insured may elect to accept
 1805 such coverage, or may elect to accept or continue coverage with
 1806 the corporation. In the event that an offer of coverage for a
 1807 personal lines risk is received from an authorized insurer at
 1808 renewal through the program, and the premium offered is at or
 1809 below the eligibility threshold specified in s.
 1810 627.351(6)(c)5.a. ~~more than the corporation's renewal premium~~
 1811 ~~for comparable coverage, the insured is not eligible to may~~
 1812 ~~elect to accept such coverage, or may elect to accept or~~
 1813 continue coverage with the corporation. Section
 1814 627.351(6)(c)5.a.(I) does not apply to an offer of coverage from
 1815 an authorized insurer obtained through the program. ~~An applicant~~
 1816 ~~for coverage from the corporation who was declared ineligible~~
 1817 ~~for coverage at renewal by the corporation in the previous 36~~
 1818 ~~months due to an offer of coverage pursuant to this subsection~~
 1819 ~~shall be considered a renewal under this section if the~~
 1820 ~~corporation determines that the authorized insurer making the~~
 1821 ~~offer of coverage pursuant to this subsection continues to~~
 1822 ~~insure the applicant and increased the rate on the policy in~~
 1823 ~~excess of the increase allowed for the corporation under s.~~
 1824 ~~627.351(6)(n)5.~~
 1825 (6) Independent insurance agents submitting new

1826 applications for coverage or that are the agent of record on a
 1827 renewal policy submitted to the program:

1828 (a) Are granted and must maintain ownership and the
 1829 exclusive use of expirations, records, or other written or
 1830 electronic information directly related to such applications or
 1831 renewals written through the corporation or through an insurer
 1832 participating in the program, notwithstanding s.

1833 627.351(6)(c)5.a.(I)(B) and (II)(B). Such ownership is granted
 1834 for as long as the insured remains with the agency or until sold
 1835 or surrendered in writing by the agent. Contracts with the
 1836 corporation or required by the corporation must not amend,
 1837 modify, interfere with, or limit such rights of ownership. Such
 1838 expirations, records, or other written or electronic information
 1839 may be used to review an application, issue a policy, or for any
 1840 other purpose necessary for placing such business through the
 1841 program.

1842 (b) May not be required to be appointed by any insurer
 1843 participating in the program for policies written solely through
 1844 the program, notwithstanding the provisions of s. 626.112.

1845 (c) May accept an appointment from any insurer
 1846 participating in the program.

1847 (d) May enter into either a standard or limited agency
 1848 agreement with the insurer, at the insurer's option.

1849
 1850 Applicants ineligible for coverage in accordance with subsection

1851 (5) remain ineligible if their independent agent is unwilling or
1852 unable to enter into a standard or limited agency agreement with
1853 an insurer participating in the program.

1854 (7) Exclusive agents submitting new applications for
1855 coverage or that are the agent of record on a renewal policy
1856 submitted to the program:

1857 (a) Must maintain ownership and the exclusive use of
1858 expirations, records, or other written or electronic information
1859 directly related to such applications or renewals written
1860 through the corporation or through an insurer participating in
1861 the program, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and
1862 (II)(B). Contracts with the corporation or required by the
1863 corporation must not amend, modify, interfere with, or limit
1864 such rights of ownership. Such expirations, records, or other
1865 written or electronic information may be used to review an
1866 application, issue a policy, or for any other purpose necessary
1867 for placing such business through the program.

1868 (b) May not be required to be appointed by any insurer
1869 participating in the program for policies written solely through
1870 the program, notwithstanding the provisions of s. 626.112.

1871 (c) Must only facilitate the placement of an offer of
1872 coverage from an insurer whose limited servicing agreement is
1873 approved by that exclusive agent's exclusive insurer.

1874 (d) May enter into a limited servicing agreement with the
1875 insurer making an offer of coverage, and only after the

1876 exclusive agent's insurer has approved the limited servicing
1877 agreement terms. The exclusive agent's insurer must approve a
1878 limited service agreement for the program for any insurer for
1879 which it has approved a service agreement for other purposes.
1880

1881 Applicants ineligible for coverage in accordance with subsection
1882 (5) remain ineligible if their exclusive agent is unwilling or
1883 unable to enter into a standard or limited agency agreement with
1884 an insurer making an offer of coverage to that applicant.

1885 (8) Submission of an application for coverage by the
1886 corporation to the program does not constitute the binding of
1887 coverage by the corporation, and failure of the program to
1888 obtain an offer of coverage by an insurer may not be considered
1889 acceptance of coverage of the risk by the corporation.

1890 (9) The 45-day notice of nonrenewal requirement set forth
1891 in s. 627.4133(2)(b)5. applies when a policy is nonrenewed by
1892 the corporation because the risk has received an offer of
1893 coverage pursuant to this section which renders the risk
1894 ineligible for coverage by the corporation.

1895 (10) The program may not include commercial nonresidential
1896 policies.

1897 (11) Proprietary business information provided to the
1898 corporation's clearinghouse by insurers with respect to
1899 identifying and selecting risks for an offer of coverage is
1900 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I

1901 of the State Constitution.

1902 (a) As used in this subsection, the term "proprietary
 1903 business information" means information, regardless of form or
 1904 characteristics, which is owned or controlled by an insurer and:

1905 1. Is identified by the insurer as proprietary business
 1906 information and is intended to be and is treated by the insurer
 1907 as private in that the disclosure of the information would cause
 1908 harm to the insurer, an individual, or the company's business
 1909 operations and has not been disclosed unless disclosed pursuant
 1910 to a statutory requirement, an order of a court or
 1911 administrative body, or a private agreement that provides that
 1912 the information will not be released to the public;

1913 2. Is not otherwise readily ascertainable or publicly
 1914 available by proper means by other persons from another source
 1915 in the same configuration as provided to the clearinghouse; and

1916 3. Includes:

1917 a. Trade secrets, as defined in s. 688.002.

1918 b. Information relating to competitive interests, the
 1919 disclosure of which would impair the competitive business of the
 1920 provider of the information.

1921
 1922 Proprietary business information may be found in underwriting
 1923 criteria or instructions which are used to identify and select
 1924 risks through the program for an offer of coverage and are
 1925 shared with the clearinghouse to facilitate the shopping of

1926 risks with the insurer.

1927 (b) The clearinghouse may disclose confidential and exempt
 1928 proprietary business information:

1929 1. If the insurer to which it pertains gives prior written
 1930 consent;

1931 2. Pursuant to a court order; or

1932 3. To another state agency in this or another state or to
 1933 a federal agency if the recipient agrees in writing to maintain
 1934 the confidential and exempt status of the document, material, or
 1935 other information and has verified in writing its legal
 1936 authority to maintain such confidentiality.

1937 Section 5. This act shall take effect July 1, 2022.