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LEGISLATIVE ACTION

Senate

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House

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12/13/2022 02:53 PM

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Senator Torres moved the following:

Senate Amendment

Delete lines 604 - 2813

and insert:

within 45 ~~90~~ days after an insurer receives notice of a residential property insurance claim, determines the amounts of partial or full benefits, and agrees to coverage, unless payment of the undisputed benefits is prevented by factors beyond the control of the insurer as defined in s. 627.70131(5) ~~an act of God, prevented by the impossibility of performance, or due to~~



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

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

18 627.351 Insurance risk apportionment plans.—

19 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

20 (b)1. All insurers authorized to write one or more subject
21 lines of business in this state are subject to assessment by the
22 corporation and, for the purposes of this subsection, are
23 referred to collectively as "assessable insurers." Insurers
24 writing one or more subject lines of business in this state
25 pursuant to part VIII of chapter 626 are not assessable
26 insurers; however, insureds who procure one or more subject
27 lines of business in this state pursuant to part VIII of chapter
28 626 are subject to assessment by the corporation and are
29 referred to collectively as "assessable insureds." An insurer's
30 assessment liability begins on the first day of the calendar
31 year following the year in which the insurer was issued a
32 certificate of authority to transact insurance for subject lines
33 of business in this state and terminates 1 year after the end of
34 the first calendar year during which the insurer no longer holds
35 a certificate of authority to transact insurance for subject
36 lines of business in this state.

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



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40 (I) A personal lines account for personal residential
41 policies issued by the corporation which provides comprehensive,
42 multiperil coverage on risks that are not located in areas
43 eligible for coverage by the Florida Windstorm Underwriting
44 Association as those areas were defined on January 1, 2002, and
45 for policies that do not provide coverage for the peril of wind
46 on risks that are located in such areas;

47 (II) A commercial lines account for commercial residential
48 and commercial nonresidential policies issued by the corporation
49 which provides coverage for basic property perils on risks that
50 are not located in areas eligible for coverage by the Florida
51 Windstorm Underwriting Association as those areas were defined
52 on January 1, 2002, and for policies that do not provide
53 coverage for the peril of wind on risks that are located in such
54 areas; and

55 (III) A coastal account for personal residential policies
56 and commercial residential and commercial nonresidential
57 property policies issued by the corporation which provides
58 coverage for the peril of wind on risks that are located in
59 areas eligible for coverage by the Florida Windstorm
60 Underwriting Association as those areas were defined on January
61 1, 2002. The corporation may offer policies that provide
62 multiperil coverage and shall offer policies that provide
63 coverage only for the peril of wind for risks located in areas
64 eligible for coverage in the coastal account. Effective July 1,
65 2014, the corporation shall cease offering new commercial
66 residential policies providing multiperil coverage and shall
67 instead continue to offer commercial residential wind-only
68 policies, and may offer commercial residential policies



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69 excluding wind. The corporation may, however, continue to renew
70 a commercial residential multiperil policy on a building that is
71 insured by the corporation on June 30, 2014, under a multiperil
72 policy. In issuing multiperil coverage, the corporation may use
73 its approved policy forms and rates for the personal lines
74 account. An applicant or insured who is eligible to purchase a
75 multiperil policy from the corporation may purchase a multiperil
76 policy from an authorized insurer without prejudice to the
77 applicant's or insured's eligibility to prospectively purchase a
78 policy that provides coverage only for the peril of wind from
79 the corporation. An applicant or insured who is eligible for a
80 corporation policy that provides coverage only for the peril of
81 wind may elect to purchase or retain such policy and also
82 purchase or retain coverage excluding wind from an authorized
83 insurer without prejudice to the applicant's or insured's
84 eligibility to prospectively purchase a policy that provides
85 multiperil coverage from the corporation. It is the goal of the
86 Legislature that there be an overall average savings of 10
87 percent or more for a policyholder who currently has a wind-only
88 policy with the corporation, and an ex-wind policy with a
89 voluntary insurer or the corporation, and who obtains a
90 multiperil policy from the corporation. It is the intent of the
91 Legislature that the offer of multiperil coverage in the coastal
92 account be made and implemented in a manner that does not
93 adversely affect the tax-exempt status of the corporation or
94 creditworthiness of or security for currently outstanding
95 financing obligations or credit facilities of the coastal
96 account, the personal lines account, or the commercial lines
97 account. The coastal account must also include quota share



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

103 b. The three separate accounts must be maintained as long
104 as financing obligations entered into by the Florida Windstorm
105 Underwriting Association or Residential Property and Casualty
106 Joint Underwriting Association are outstanding, in accordance
107 with the terms of the corresponding financing documents. If no
108 such financing obligations remain outstanding or if the
109 financing documents allow for combining of accounts, the
110 corporation may consolidate the three separate accounts into a
111 new account, to be known as the Citizens account, for all
112 revenues, assets, liabilities, losses, and expenses of the
113 corporation. The Citizens account, if established by the
114 corporation, is authorized to provide coverage to the same
115 extent as provided under each of the three separate accounts.
116 The authority to provide coverage under the Citizens account is
117 set forth in subparagraph 4. ~~If the financing obligations are no~~
118 ~~longer outstanding, the corporation may use a single account for~~
119 ~~all revenues, assets, liabilities, losses, and expenses of the~~
120 ~~corporation.~~ Consistent with this subparagraph and prudent
121 investment policies that minimize the cost of carrying debt, the
122 board shall exercise its best efforts to retire existing debt or
123 obtain the approval of necessary parties to amend the terms of
124 existing debt, so as to structure the most efficient plan for
125 consolidating the three separate accounts into a single account.
126 Once the accounts are combined into one account, this



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127 subparagraph and subparagraph 3. shall be replaced in their
128 entirety by subparagraphs 4. and 5.

129 c. Creditors of the Residential Property and Casualty Joint
130 Underwriting Association and the accounts specified in sub-sub-
131 subparagraphs a.(I) and (II) may have a claim against, and
132 recourse to, those accounts and no claim against, or recourse
133 to, the account referred to in sub-sub-subparagraph a.(III).
134 Creditors of the Florida Windstorm Underwriting Association have
135 a claim against, and recourse to, the account referred to in
136 sub-sub-subparagraph a.(III) and no claim against, or recourse
137 to, the accounts referred to in sub-sub-subparagraphs a.(I) and
138 (II).

139 d. Revenues, assets, liabilities, losses, and expenses not
140 attributable to particular accounts shall be prorated among the
141 accounts.

142 e. The Legislature finds that the revenues of the
143 corporation are revenues that are necessary to meet the
144 requirements set forth in documents authorizing the issuance of
145 bonds under this subsection.

146 f. The income of the corporation may not inure to the
147 benefit of any private person.

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

149 a. After accounting for the Citizens policyholder surcharge
150 imposed under sub-subparagraph i., if the remaining projected
151 deficit incurred in the coastal account in a particular calendar
152 year:

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



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

158 (II) Exceeds 2 percent of the aggregate statewide direct
159 written premium for the subject lines of business for the prior
160 calendar year, the corporation shall levy regular assessments on
161 assessable insurers under paragraph (q) and on assessable
162 insureds in an amount equal to the greater of 2 percent of the
163 projected deficit or 2 percent of the aggregate statewide direct
164 written premium for the subject lines of business for the prior
165 calendar year. Any remaining projected deficit shall be
166 recovered through emergency assessments under sub-subparagraph
167 e. ~~d.~~

168 b. Each assessable insurer's share of the amount being
169 assessed under sub-subparagraph a. must be in the proportion
170 that the assessable insurer's direct written premium for the
171 subject lines of business for the year preceding the assessment
172 bears to the aggregate statewide direct written premium for the
173 subject lines of business for that year. The assessment
174 percentage applicable to each assessable insured is the ratio of
175 the amount being assessed under sub-subparagraph a. to the
176 aggregate statewide direct written premium for the subject lines
177 of business for the prior year. Assessments levied by the
178 corporation on assessable insurers under sub-subparagraph a.
179 must be paid as required by the corporation's plan of operation
180 and paragraph (q). Assessments levied by the corporation on
181 assessable insureds under sub-subparagraph a. shall be collected
182 by the surplus lines agent at the time the surplus lines agent
183 collects the surplus lines tax required by s. 626.932, and paid
184 to the Florida Surplus Lines Service Office at the time the



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185 surplus lines agent pays the surplus lines tax to that office.
186 Upon receipt of regular assessments from surplus lines agents,
187 the Florida Surplus Lines Service Office shall transfer the
188 assessments directly to the corporation as determined by the
189 corporation.

190 c. The corporation may not levy regular assessments under
191 paragraph (q) pursuant to sub-subparagraph a. or sub-
192 subparagraph b. if the three separate accounts in sub-sub-
193 subparagraphs 2.a.(I)-(III) have been consolidated into the
194 Citizens account pursuant to sub-subparagraph 2.b. However, the
195 outstanding balance of any regular assessment levied by the
196 corporation before establishment of the Citizens account remains
197 payable to the corporation.

198 d. After accounting for the Citizens policyholder surcharge
199 imposed under sub-subparagraph ~~j. i.~~, the remaining projected
200 deficits in the personal lines account and in the commercial
201 lines account in a particular calendar year shall be recovered
202 through emergency assessments under sub-subparagraph ~~e. d.~~

203 ~~e. d.~~ Upon a determination by the board of governors that a
204 projected deficit in an account exceeds the amount that is
205 expected to be recovered through regular assessments under sub-
206 subparagraph a., plus the amount that is expected to be
207 recovered through surcharges under sub-subparagraph ~~j. i.~~, the
208 board, after verification by the office, shall levy emergency
209 assessments for as many years as necessary to cover the
210 deficits, to be collected by assessable insurers and the
211 corporation and collected from assessable insureds upon issuance
212 or renewal of policies for subject lines of business, excluding
213 National Flood Insurance policies. The amount collected in a



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214 particular year must be a uniform percentage of that year's
215 direct written premium for subject lines of business and all
216 accounts of the corporation, excluding National Flood Insurance
217 Program policy premiums, as annually determined by the board and
218 verified by the office. The office shall verify the arithmetic
219 calculations involved in the board's determination within 30
220 days after receipt of the information on which the determination
221 was based. The office shall notify assessable insurers and the
222 Florida Surplus Lines Service Office of the date on which
223 assessable insurers shall begin to collect and assessable
224 insureds shall begin to pay such assessment. The date must be at
225 least 90 days after the date the corporation levies emergency
226 assessments pursuant to this sub-subparagraph. Notwithstanding
227 any other provision of law, the corporation and each assessable
228 insurer that writes subject lines of business shall collect
229 emergency assessments from its policyholders without such
230 obligation being affected by any credit, limitation, exemption,
231 or deferment. Emergency assessments levied by the corporation on
232 assessable insureds shall be collected by the surplus lines
233 agent at the time the surplus lines agent collects the surplus
234 lines tax required by s. 626.932 and paid to the Florida Surplus
235 Lines Service Office at the time the surplus lines agent pays
236 the surplus lines tax to that office. The emergency assessments
237 collected shall be transferred directly to the corporation on a
238 periodic basis as determined by the corporation and held by the
239 corporation solely in the applicable account. The aggregate
240 amount of emergency assessments levied for an account in any
241 calendar year may be less than but may not exceed the greater of
242 10 percent of the amount needed to cover the deficit, plus



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243 interest, fees, commissions, required reserves, and other costs
244 associated with financing the original deficit, or 10 percent of
245 the aggregate statewide direct written premium for subject lines
246 of business and all accounts of the corporation for the prior
247 year, plus interest, fees, commissions, required reserves, and
248 other costs associated with financing the deficit.

249 ~~f.e.~~ The corporation may pledge the proceeds of
250 assessments, projected recoveries from the Florida Hurricane
251 Catastrophe Fund, other insurance and reinsurance recoverables,
252 policyholder surcharges and other surcharges, and other funds
253 available to the corporation as the source of revenue for and to
254 secure bonds issued under paragraph (q), bonds or other
255 indebtedness issued under subparagraph (c)3., or lines of credit
256 or other financing mechanisms issued or created under this
257 subsection, or to retire any other debt incurred as a result of
258 deficits or events giving rise to deficits, or in any other way
259 that the board determines will efficiently recover such
260 deficits. The purpose of the lines of credit or other financing
261 mechanisms is to provide additional resources to assist the
262 corporation in covering claims and expenses attributable to a
263 catastrophe. As used in this subsection, the term "assessments"
264 includes regular assessments under sub-subparagraph a. or
265 subparagraph (q)1. and emergency assessments under sub-
266 subparagraph e. ~~d.~~ Emergency assessments collected under sub-
267 subparagraph e. ~~d.~~ are not part of an insurer's rates, are not
268 premium, and are not subject to premium tax, fees, or
269 commissions; however, failure to pay the emergency assessment
270 shall be treated as failure to pay premium. The emergency
271 assessments shall continue as long as any bonds issued or other



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272 indebtedness incurred with respect to a deficit for which the
273 assessment was imposed remain outstanding, unless adequate
274 provision has been made for the payment of such bonds or other
275 indebtedness pursuant to the documents governing such bonds or
276 indebtedness.

277 ~~g.f.~~ As used in this subsection for purposes of any deficit
278 incurred on or after January 25, 2007, the term "subject lines
279 of business" means insurance written by assessable insurers or
280 procured by assessable insureds for all property and casualty
281 lines of business in this state, but not including workers'
282 compensation or medical malpractice. As used in this sub-
283 subparagraph, the term "property and casualty lines of business"
284 includes all lines of business identified on Form 2, Exhibit of
285 Premiums and Losses, in the annual statement required of
286 authorized insurers under s. 624.424 and any rule adopted under
287 this section, except for those lines identified as accident and
288 health insurance and except for policies written under the
289 National Flood Insurance Program or the Federal Crop Insurance
290 Program. For purposes of this sub-subparagraph, the term
291 "workers' compensation" includes both workers' compensation
292 insurance and excess workers' compensation insurance.

293 ~~h.g.~~ The Florida Surplus Lines Service Office shall
294 determine annually the aggregate statewide written premium in
295 subject lines of business procured by assessable insureds and
296 report that information to the corporation in a form and at a
297 time the corporation specifies to ensure that the corporation
298 can meet the requirements of this subsection and the
299 corporation's financing obligations.

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



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301 the proper application by surplus lines agents of assessment
302 percentages for regular assessments and emergency assessments
303 levied under this subparagraph on assessable insureds and assist
304 the corporation in ensuring the accurate, timely collection and
305 payment of assessments by surplus lines agents as required by
306 the corporation.

307 ~~j.i.~~ Upon determination by the board of governors that an
308 account has a projected deficit, the board shall levy a Citizens
309 policyholder surcharge against all policyholders of the
310 corporation.

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

314 (II) The surcharge is payable upon cancellation or
315 termination of the policy, upon renewal of the policy, or upon
316 issuance of a new policy by the corporation within the first 12
317 months after the date of the levy or the period of time
318 necessary to fully collect the surcharge amount.

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

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

327 ~~k.j.~~ If the amount of any assessments or surcharges
328 collected from corporation policyholders, assessable insurers or
329 their policyholders, or assessable insureds exceeds the amount



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330 of the deficits, such excess amounts shall be remitted to and
331 retained by the corporation in a reserve to be used by the
332 corporation, as determined by the board of governors and
333 approved by the office, to pay claims or reduce any past,
334 present, or future plan-year deficits or to reduce outstanding
335 debt.

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

338 a. Personal residential policies that provide
339 comprehensive, multiperil coverage on risks that are not located
340 in areas eligible for coverage by the Florida Windstorm
341 Underwriting Association, as those areas were defined on January
342 1, 2002, and for policies that do not provide coverage for the
343 peril of wind on risks that are located in such areas;

344 b. Commercial residential and commercial nonresidential
345 policies that provide coverage for basic property perils on
346 risks that are not located in areas eligible for coverage by the
347 Florida Windstorm Underwriting Association, as those areas were
348 defined on January 1, 2002, and for policies that do not provide
349 coverage for the peril of wind on risks that are located in such
350 areas; and

351 c. Personal residential policies and commercial residential
352 and commercial nonresidential property policies that provide
353 coverage for the peril of wind on risks that are located in
354 areas eligible for coverage by the Florida Windstorm
355 Underwriting Association, as those areas were defined on January
356 1, 2002. The corporation may offer policies that provide
357 multiperil coverage and shall offer policies that provide
358 coverage only for the peril of wind for risks located in areas



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359 eligible for coverage by the Florida Windstorm Underwriting
360 Association, as those areas were defined on January 1, 2002. The
361 corporation may not offer new commercial residential policies
362 providing multiperil coverage, but shall continue to offer
363 commercial residential wind-only policies, and may offer
364 commercial residential policies excluding wind. However, the
365 corporation may continue to renew a commercial residential
366 multiperil policy on a building that was insured by the
367 corporation on June 30, 2014, under a multiperil policy. In
368 issuing multiperil coverage under this sub-subparagraph, the
369 corporation may use its approved policy forms and rates for
370 risks located in areas not eligible for coverage by the Florida
371 Windstorm Underwriting Association as those areas were defined
372 on January 1, 2002, and for policies that do not provide
373 coverage for the peril of wind on risks that are located in such
374 areas. An applicant or insured who is eligible to purchase a
375 multiperil policy from the corporation may purchase a multiperil
376 policy from an authorized insurer without prejudice to the
377 applicant's or insured's eligibility to prospectively purchase a
378 policy that provides coverage only for the peril of wind from
379 the corporation. An applicant or insured who is eligible for a
380 corporation policy that provides coverage only for the peril of
381 wind may elect to purchase or retain such policy and also
382 purchase or retain coverage excluding wind from an authorized
383 insurer without prejudice to the applicant's or insured's
384 eligibility to prospectively purchase a policy that provides
385 multiperil coverage from the corporation. The following
386 policies, which provide coverage only for the peril of wind,
387 must also include quota share primary insurance under



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388 subparagraph (c)2.: Personal residential policies and commercial
389 residential and commercial nonresidential property policies that
390 provide coverage for the peril of wind on risks that are located
391 in areas eligible for coverage by the Florida Windstorm
392 Underwriting Association, as those areas were defined on January
393 1, 2002; policies that provide multiperil coverage, if offered
394 by the corporation, and policies that provide coverage only for
395 the peril of wind for risks located in areas eligible for
396 coverage by the Florida Windstorm Underwriting Association, as
397 those areas were defined on January 1, 2002; commercial
398 residential wind-only policies; commercial residential policies
399 excluding wind, if offered by the corporation; and commercial
400 residential multiperil policies on a building that was insured
401 by the corporation on June 30, 2014. The area eligible for
402 coverage with the corporation under this sub-subparagraph
403 includes the area within Port Canaveral, which is bordered on
404 the south by the City of Cape Canaveral, bordered on the west by
405 the Banana River, and bordered on the north by Federal
406 Government property.

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

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

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

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



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417 issuance of a new policy by the corporation within the first 12
418 months after the date of the levy or the period of time
419 necessary to fully collect the surcharge amount.

420 (III) The surcharge is not considered premium and is not
421 subject to commissions, fees, or premium taxes. However, failure
422 to pay the surcharge shall be treated as failure to pay premium.

423 b. After accounting for the Citizens policyholder surcharge
424 imposed under sub-subparagraph a., the remaining projected
425 deficit incurred in the Citizens account in a particular
426 calendar year shall be recovered through emergency assessments
427 under sub-subparagraph c.

428 c. Upon a determination by the board of governors that a
429 projected deficit in the Citizens account exceeds the amount
430 that is expected to be recovered through surcharges under sub-
431 subparagraph a., the board, after verification by the office,
432 shall levy emergency assessments for as many years as necessary
433 to cover the deficits, to be collected by assessable insurers
434 and the corporation and collected from assessable insureds upon
435 issuance or renewal of policies for subject lines of business,
436 excluding National Flood Insurance Program policies. The amount
437 collected in a particular year must be a uniform percentage of
438 that year's direct written premium for subject lines of business
439 and the Citizens account, National Flood Insurance Program
440 policy premiums, as annually determined by the board and
441 verified by the office. The office shall verify the arithmetic
442 calculations involved in the board's determination within 30
443 days after receipt of the information on which the determination
444 was based. The office shall notify assessable insurers and the
445 Florida Surplus Lines Service Office of the date on which



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446 assessable insurers shall begin to collect and assessable
447 insureds shall begin to pay such assessment. The date must be at
448 least 90 days after the date the corporation levies emergency
449 assessments pursuant to this sub-subparagraph. Notwithstanding
450 any other law, the corporation and each assessable insurer that
451 writes subject lines of business shall collect emergency
452 assessments from its policyholders without such obligation being
453 affected by any credit, limitation, exemption, or deferment.
454 Emergency assessments levied by the corporation on assessable
455 insureds shall be collected by the surplus lines agent at the
456 time the surplus lines agent collects the surplus lines tax
457 required by s. 626.932 and paid to the Florida Surplus Lines
458 Service Office at the time the surplus lines agent pays the
459 surplus lines tax to that office. The emergency assessments
460 collected shall be transferred directly to the corporation on a
461 periodic basis as determined by the corporation and held by the
462 corporation solely in the Citizens account. The aggregate amount
463 of emergency assessments levied for the Citizens account in any
464 calendar year may be less than, but may not exceed the greater
465 of, 10 percent of the amount needed to cover the deficit, plus
466 interest, fees, commissions, required reserves, and other costs
467 associated with financing the original deficit or 10 percent of
468 the aggregate statewide direct written premium for subject lines
469 of business and the Citizens accounts for the prior year, plus
470 interest, fees, commissions, required reserves, and other costs
471 associated with financing the deficit.

472 d. The corporation may pledge the proceeds of assessments,
473 projected recoveries from the Florida Hurricane Catastrophe
474 Fund, other insurance and reinsurance recoverables, policyholder



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475 surcharges and other surcharges, and other funds available to
476 the corporation as the source of revenue for and to secure bonds
477 issued under paragraph (q), bonds or other indebtedness issued
478 under subparagraph (c)3., or lines of credit or other financing
479 mechanisms issued or created under this subsection; or to retire
480 any other debt incurred as a result of deficits or events giving
481 rise to deficits, or in any other way that the board determines
482 will efficiently recover such deficits. The purpose of the lines
483 of credit or other financing mechanisms is to provide additional
484 resources to assist the corporation in covering claims and
485 expenses attributable to a catastrophe. As used in this
486 subsection, the term "assessments" includes emergency
487 assessments under sub-subparagraph c. Emergency assessments
488 collected under sub-subparagraph c. are not part of an insurer's
489 rates, are not premium, and are not subject to premium tax,
490 fees, or commissions; however, failure to pay the emergency
491 assessment shall be treated as failure to pay premium. The
492 emergency assessments shall continue as long as any bonds issued
493 or other indebtedness incurred with respect to a deficit for
494 which the assessment was imposed remain outstanding, unless
495 adequate provision has been made for the payment of such bonds
496 or other indebtedness pursuant to the documents governing such
497 bonds or indebtedness.

498 e. As used in this subsection and for purposes of any
499 deficit incurred on or after January 25, 2007, the term "subject
500 lines of business" means insurance written by assessable
501 insurers or procured by assessable insureds for all property and
502 casualty lines of business in this state, but not including
503 workers' compensation or medical malpractice. As used in this



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504 sub-subparagraph, the term "property and casualty lines of
505 business" includes all lines of business identified on Form 2,
506 Exhibit of Premiums and Losses, in the annual statement required
507 of authorized insurers under s. 624.424 and any rule adopted
508 under this section, except for those lines identified as
509 accident and health insurance and except for policies written
510 under the National Flood Insurance Program or the Federal Crop
511 Insurance Program. For purposes of this sub-subparagraph, the
512 term "workers' compensation" includes both workers' compensation
513 insurance and excess workers' compensation insurance.

514 f. The Florida Surplus Lines Service Office shall annually
515 determine the aggregate statewide written premium in subject
516 lines of business procured by assessable insureds and report
517 that information to the corporation in a form and at a time the
518 corporation specifies to ensure that the corporation can meet
519 the requirements of this subsection and the corporation's
520 financing obligations.

521 g. The Florida Surplus Lines Service Office shall verify
522 the proper application by surplus lines agents of assessment
523 percentages for emergency assessments levied under this
524 subparagraph on assessable insureds and assist the corporation
525 in ensuring the accurate, timely collection and payment of
526 assessments by surplus lines agents as required by the
527 corporation.

528 h. If the amount of any assessments or surcharges collected
529 from corporation policyholders, assessable insurers or their
530 policyholders, or assessable insureds exceeds the amount of the
531 deficits, such excess amounts shall be remitted to and retained
532 by the corporation in a reserve to be used by the corporation,



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

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

537 1. Must provide for adoption of residential property and
538 casualty insurance policy forms and commercial residential and
539 nonresidential property insurance forms, which must be approved
540 by the office before use. The corporation shall adopt the
541 following policy forms:

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

546 b. Basic personal lines policy forms that are policies
547 similar to an HO-8 policy or a dwelling fire policy that provide
548 coverage meeting the requirements of the secondary mortgage
549 market, but which is more limited than the coverage under a
550 standard policy.

551 c. Commercial lines residential and nonresidential policy
552 forms that are generally similar to the basic perils of full
553 coverage obtainable for commercial residential structures and
554 commercial nonresidential structures in the admitted voluntary
555 market.

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



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562 ~~(b)2.a.~~

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

569 f. The corporation may adopt variations of the policy forms
570 listed in sub-subparagraphs a.-e. which contain more restrictive
571 coverage.

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

576 2. Must provide that the corporation adopt a program in
577 which the corporation and authorized insurers enter into quota
578 share primary insurance agreements for hurricane coverage, as
579 defined in s. 627.4025(2)(a), for eligible risks, and adopt
580 property insurance forms for eligible risks which cover the
581 peril of wind only.

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

583 (I) "Quota share primary insurance" means an arrangement in
584 which the primary hurricane coverage of an eligible risk is
585 provided in specified percentages by the corporation and an
586 authorized insurer. The corporation and authorized insurer are
587 each solely responsible for a specified percentage of hurricane
588 coverage of an eligible risk as set forth in a quota share
589 primary insurance agreement between the corporation and an
590 authorized insurer and the insurance contract. The



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591 responsibility of the corporation or authorized insurer to pay
592 its specified percentage of hurricane losses of an eligible
593 risk, as set forth in the agreement, may not be altered by the
594 inability of the other party to pay its specified percentage of
595 losses. Eligible risks that are provided hurricane coverage
596 through a quota share primary insurance arrangement must be
597 provided policy forms that set forth the obligations of the
598 corporation and authorized insurer under the arrangement,
599 clearly specify the percentages of quota share primary insurance
600 provided by the corporation and authorized insurer, and
601 conspicuously and clearly state that the authorized insurer and
602 the corporation may not be held responsible beyond their
603 specified percentage of coverage of hurricane losses.

604 (II) "Eligible risks" means personal lines residential and
605 commercial lines residential risks that meet the underwriting
606 criteria of the corporation and are located in areas that were
607 eligible for coverage by the Florida Windstorm Underwriting
608 Association on January 1, 2002.

609 b. The corporation may enter into quota share primary
610 insurance agreements with authorized insurers at corporation
611 coverage levels of 90 percent and 50 percent.

612 c. If the corporation determines that additional coverage
613 levels are necessary to maximize participation in quota share
614 primary insurance agreements by authorized insurers, the
615 corporation may establish additional coverage levels. However,
616 the corporation's quota share primary insurance coverage level
617 may not exceed 90 percent.

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



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620 for a uniform specified percentage of coverage of hurricane
621 losses, by county or territory as set forth by the corporation
622 board, for all eligible risks of the authorized insurer covered
623 under the agreement.

624 e. Any quota share primary insurance agreement entered into
625 between an authorized insurer and the corporation is subject to
626 review and approval by the office. However, such agreement shall
627 be authorized only as to insurance contracts entered into
628 between an authorized insurer and an insured who is already
629 insured by the corporation for wind coverage.

630 f. For all eligible risks covered under quota share primary
631 insurance agreements, the exposure and coverage levels for both
632 the corporation and authorized insurers shall be reported by the
633 corporation to the Florida Hurricane Catastrophe Fund. For all
634 policies of eligible risks covered under such agreements, the
635 corporation and the authorized insurer must maintain complete
636 and accurate records for the purpose of exposure and loss
637 reimbursement audits as required by fund rules. The corporation
638 and the authorized insurer shall each maintain duplicate copies
639 of policy declaration pages and supporting claims documents.

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

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



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649 not limited to, the sale and servicing of policies issued under
650 the agreement by the insurance agent of the authorized insurer
651 producing the business, the reporting of information concerning
652 eligible risks, the payment of premium to the corporation, and
653 arrangements for the adjustment and payment of hurricane claims
654 incurred on eligible risks by the claims adjuster and personnel
655 of the authorized insurer. Entering into a quota sharing
656 insurance agreement between the corporation and an authorized
657 insurer is voluntary and at the discretion of the authorized
658 insurer.

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



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678 actions needed to facilitate tax-free status for such bonds or
679 indebtedness, including formation of trusts or other affiliated
680 entities. The corporation may pledge assessments, projected
681 recoveries from the Florida Hurricane Catastrophe Fund, other
682 reinsurance recoverables, policyholder surcharges and other
683 surcharges, and other funds available to the corporation as
684 security for bonds or other indebtedness. In recognition of s.
685 10, Art. I of the State Constitution, prohibiting the impairment
686 of obligations of contracts, it is the intent of the Legislature
687 that no action be taken whose purpose is to impair any bond
688 indenture or financing agreement or any revenue source committed
689 by contract to such bond or other indebtedness.

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

699 a. The Governor, the Chief Financial Officer, the President
700 of the Senate, and the Speaker of the House of Representatives
701 shall each appoint two members of the board. At least one of the
702 two members appointed by each appointing officer must have
703 demonstrated expertise in insurance and be deemed to be within
704 the scope of the exemption provided in s. 112.313(7)(b). The
705 Chief Financial Officer shall designate one of the appointees as
706 chair. All board members serve at the pleasure of the appointing



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707 officer. All members of the board are subject to removal at will
708 by the officers who appointed them. All board members, including
709 the chair, must be appointed to serve for 3-year terms beginning
710 annually on a date designated by the plan. However, for the
711 first term beginning on or after July 1, 2009, each appointing
712 officer shall appoint one member of the board for a 2-year term
713 and one member for a 3-year term. A board vacancy shall be
714 filled for the unexpired term by the appointing officer. The
715 Chief Financial Officer shall appoint a technical advisory group
716 to provide information and advice to the board in connection
717 with the board's duties under this subsection. The executive
718 director and senior managers of the corporation shall be engaged
719 by the board and serve at the pleasure of the board. Any
720 executive director appointed on or after July 1, 2006, is
721 subject to confirmation by the Senate. The executive director is
722 responsible for employing other staff as the corporation may
723 require, subject to review and concurrence by the board.

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

729 (I) The members of the advisory committee consist of the
730 following 11 persons, one of whom must be elected chair by the
731 members of the committee: four representatives, one appointed by
732 the Florida Association of Insurance Agents, one by the Florida
733 Association of Insurance and Financial Advisors, one by the
734 Professional Insurance Agents of Florida, and one by the Latin
735 American Association of Insurance Agencies; three



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736 representatives appointed by the insurers with the three highest
737 voluntary market share of residential property insurance
738 business in the state; one representative from the Office of
739 Insurance Regulation; one consumer appointed by the board who is
740 insured by the corporation at the time of appointment to the
741 committee; one representative appointed by the Florida
742 Association of Realtors; and one representative appointed by the
743 Florida Bankers Association. All members shall be appointed to
744 3-year terms and may serve for consecutive terms.

745 (II) The committee shall report to the corporation at each
746 board meeting on insurance market issues which may include rates
747 and rate competition with the voluntary market; service,
748 including policy issuance, claims processing, and general
749 responsiveness to policyholders, applicants, and agents; and
750 matters relating to depopulation.

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

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



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765 renewal from an authorized insurer, if the offer is equal to or
766 less than the corporation's renewal premium for comparable
767 coverage, the risk is not eligible for coverage with the
768 corporation for policies that renew before April 1, 2023; for
769 policies that renew on or after that date, the risk is not
770 eligible for coverage with the corporation unless the premium
771 for coverage from the authorized insurer is more than 20 percent
772 greater than the corporation's renewal premium for comparable
773 coverage. If the risk is not able to obtain such offer, the risk
774 is eligible for a standard policy including wind coverage or a
775 basic policy including wind coverage issued by the corporation;
776 however, if the risk could not be insured under a standard
777 policy including wind coverage regardless of market conditions,
778 the risk is eligible for a basic policy including wind coverage
779 unless rejected under subparagraph 8. ~~However, a policyholder~~
780 ~~removed from the corporation through an assumption agreement~~
781 ~~remains eligible for coverage from the corporation until the end~~
782 ~~of the assumption period~~. The corporation shall determine the
783 type of policy to be provided on the basis of objective
784 standards specified in the underwriting manual and based on
785 generally accepted underwriting practices. A policyholder
786 removed from the corporation through an assumption agreement
787 does not remain eligible for coverage from the corporation after
788 the end of the policy term. However, any policy removed from the
789 corporation through an assumption agreement remains on the
790 corporation's policy forms through the end of the policy term.

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



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794 a policy is issued to the risk by the corporation or during the
795 first 30 days of coverage by the corporation, and the producing
796 agent who submitted the application to the plan or to the
797 corporation is not currently appointed by the insurer, the
798 insurer shall:

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

804 (B) Offer to allow the producing agent of record of the
805 policy to continue servicing the policy for at least 1 year and
806 offer to pay the agent the greater of the insurer's or the
807 corporation's usual and customary commission for the type of
808 policy written.

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

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

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

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



823 continue servicing the policy for at least 1 year and offer to
824 pay the agent the greater of the insurer's or the corporation's
825 usual and customary commission for the type of policy written.
826

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

830 b. With respect to commercial lines residential risks, for
831 a new application to the corporation for coverage, if the risk
832 is offered coverage under a policy including wind coverage from
833 an authorized insurer at its approved rate, the risk is not
834 eligible for a policy issued by the corporation unless the
835 premium for coverage from the authorized insurer is more than 20
836 ~~15~~ percent greater than the premium for comparable coverage from
837 the corporation. Whenever an offer of coverage for a commercial
838 lines residential risk is received for a policyholder of the
839 corporation at renewal from an authorized insurer, ~~if the offer~~
840 ~~is equal to or less than the corporation's renewal premium for~~
841 ~~comparable coverage,~~ the risk is not eligible for coverage with
842 the corporation unless the premium for coverage from the
843 authorized insurer is more than 20 percent greater than the
844 corporation's renewal premium for comparable coverage. If the
845 risk is not able to obtain any such offer, the risk is eligible
846 for a policy including wind coverage issued by the corporation.
847 ~~However,~~ A policyholder removed from the corporation through an
848 assumption agreement remains eligible for coverage from the
849 corporation until the end of the policy term. However, any
850 policy removed from the corporation through an assumption
851 agreement remains on the corporation's policy forms through the



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852 end of the policy term assumption period.

853 (I) If the risk accepts an offer of coverage through the
854 market assistance plan or through a mechanism established by the
855 corporation other than a plan established by s. 627.3518, before
856 a policy is issued to the risk by the corporation or during the
857 first 30 days of coverage by the corporation, and the producing
858 agent who submitted the application to the plan or the
859 corporation is not currently appointed by the insurer, the
860 insurer shall:

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

866 (B) Offer to allow the producing agent of record of the
867 policy to continue servicing the policy for at least 1 year and
868 offer to pay the agent the greater of the insurer's or the
869 corporation's usual and customary commission for the type of
870 policy written.

871
872 If the producing agent is unwilling or unable to accept
873 appointment, the new insurer shall pay the agent in accordance
874 with sub-sub-sub-subparagraph (A).

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

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



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881 customary commission for the type of policy written or a fee
882 equal to the usual and customary commission of the corporation;
883 or

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

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

892 c. For purposes of determining comparable coverage under
893 sub-subparagraphs a. and b., the comparison must be based on
894 those forms and coverages that are reasonably comparable. The
895 corporation may rely on a determination of comparable coverage
896 and premium made by the producing agent who submits the
897 application to the corporation, made in the agent's capacity as
898 the corporation's agent. For purposes of comparing the premium
899 for comparable coverage under sub-subparagraphs a. and b.,
900 premium includes any surcharge or assessment that is actually
901 applied to such policy. A comparison may be made solely of the
902 premium with respect to the main building or structure only on
903 the following basis: the same coverage A or other building
904 limits; the same percentage hurricane deductible that applies on
905 an annual basis or that applies to each hurricane for commercial
906 residential property; the same percentage of ordinance and law
907 coverage, if the same limit is offered by both the corporation
908 and the authorized insurer; the same mitigation credits, to the
909 extent the same types of credits are offered both by the



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910 corporation and the authorized insurer; the same method for loss
911 payment, such as replacement cost or actual cash value, if the
912 same method is offered both by the corporation and the
913 authorized insurer in accordance with underwriting rules; and
914 any other form or coverage that is reasonably comparable as
915 determined by the board. If an application is submitted to the
916 corporation for wind-only coverage on a risk that is located in
917 an area eligible for coverage by the Florida Windstorm
918 Underwriting Association, as that area was defined on January 1,
919 2002 in the coastal account, the premium for the corporation's
920 wind-only policy plus the premium for the ex-wind policy that is
921 offered by an authorized insurer to the applicant must be
922 compared to the premium for multiperil coverage offered by an
923 authorized insurer, subject to the standards for comparison
924 specified in this subparagraph. If the corporation or the
925 applicant requests from the authorized insurer a breakdown of
926 the premium of the offer by types of coverage so that a
927 comparison may be made by the corporation or its agent and the
928 authorized insurer refuses or is unable to provide such
929 information, the corporation may treat the offer as not being an
930 offer of coverage from an authorized insurer at the insurer's
931 approved rate.

932 6. Must include rules for classifications of risks and
933 rates.

934 7. Must provide that if premium and investment income:

935 a. For an account attributable to a particular calendar
936 year are in excess of projected losses and expenses for the
937 account attributable to that year, such excess shall be held in
938 surplus in the account. Such surplus must be available to defray



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939 deficits in that account as to future years and used for that
940 purpose before assessing assessable insurers and assessable
941 insureds as to any calendar year; or

942 b. For the Citizens account, if established by the
943 corporation, which are attributable to a particular calendar
944 year are in excess of projected losses and expenses for the
945 Citizens account attributable to that year, such excess shall be
946 held in surplus in the Citizens account. Such surplus must be
947 available to defray deficits in the Citizens account as to
948 future years and used for that purpose before assessing
949 assessable insurers and assessable insureds as to any calendar
950 year.

951 8. Must provide objective criteria and procedures to be
952 uniformly applied to all applicants in determining whether an
953 individual risk is so hazardous as to be uninsurable. In making
954 this determination and in establishing the criteria and
955 procedures, the following must be considered:

956 a. Whether the likelihood of a loss for the individual risk
957 is substantially higher than for other risks of the same class;
958 and

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

961
962 The acceptance or rejection of a risk by the corporation shall
963 be construed as the private placement of insurance, and the
964 provisions of chapter 120 do not apply.

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



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968 the board of governors. If catastrophe reinsurance is not
969 available at reasonable rates, the corporation need not purchase
970 it, but the corporation shall include the costs of reinsurance
971 to cover its projected 100-year probable maximum loss in its
972 rate calculations even if it does not purchase catastrophe
973 reinsurance.

974 10. The policies issued by the corporation must provide
975 that if the corporation or the market assistance plan obtains an
976 offer from an authorized insurer to cover the risk at its
977 approved rates, the risk is no longer eligible for renewal
978 through the corporation, except as otherwise provided in this
979 subsection.

980 11. Corporation policies and applications must include a
981 notice that the corporation policy could, under this section, be
982 replaced with a policy issued by an authorized insurer which
983 does not provide coverage identical to the coverage provided by
984 the corporation. The notice must also specify that acceptance of
985 corporation coverage creates a conclusive presumption that the
986 applicant or policyholder is aware of this potential.

987 12. May establish, subject to approval by the office,
988 different eligibility requirements and operational procedures
989 for any line or type of coverage for any specified county or
990 area if the board determines that such changes are justified due
991 to the voluntary market being sufficiently stable and
992 competitive in such area or for such line or type of coverage
993 and that consumers who, in good faith, are unable to obtain
994 insurance through the voluntary market through ordinary methods
995 continue to have access to coverage from the corporation. If
996 coverage is sought in connection with a real property transfer,



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997 the requirements and procedures may not provide an effective
998 date of coverage later than the date of the closing of the
999 transfer as established by the transferor, the transferee, and,
1000 if applicable, the lender.

1001 13. Must provide that:7

1002 a. With respect to the coastal account, any assessable
1003 insurer with a surplus as to policyholders of \$25 million or
1004 less writing 25 percent or more of its total countrywide
1005 property insurance premiums in this state may petition the
1006 office, within the first 90 days of each calendar year, to
1007 qualify as a limited apportionment company. A regular assessment
1008 levied by the corporation on a limited apportionment company for
1009 a deficit incurred by the corporation for the coastal account
1010 may be paid to the corporation on a monthly basis as the
1011 assessments are collected by the limited apportionment company
1012 from its insureds, but a limited apportionment company must
1013 begin collecting the regular assessments not later than 90 days
1014 after the regular assessments are levied by the corporation, and
1015 the regular assessments must be paid in full within 15 months
1016 after being levied by the corporation. A limited apportionment
1017 company shall collect from its policyholders any emergency
1018 assessment imposed under sub-subparagraph (b)3.e. ~~(b)3.d.~~ The
1019 plan must provide that, if the office determines that any
1020 regular assessment will result in an impairment of the surplus
1021 of a limited apportionment company, the office may direct that
1022 all or part of such assessment be deferred as provided in
1023 subparagraph (q)4. However, an emergency assessment to be
1024 collected from policyholders under sub-subparagraph (b)3.e.
1025 ~~(b)3.d.~~ may not be limited or deferred; or



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1026 b. With respect to the Citizens account, if established by
1027 the corporation pursuant to sub-subparagraph (b)2.b., any
1028 assessable insurer with a surplus as to policyholders of \$25
1029 million or less and writing 25 percent or more of its total
1030 countrywide property insurance premiums in this state may
1031 petition the office, within the first 90 days of each calendar
1032 year, to qualify as a limited apportionment company. A limited
1033 apportionment company shall collect from its policyholders any
1034 emergency assessment imposed under sub-subparagraph (b)5.c. An
1035 emergency assessment to be collected from policyholders under
1036 sub-subparagraph (b)5.c. may not be limited or deferred.

1037 14. Must provide that the corporation appoint as its
1038 licensed agents only those agents who throughout such
1039 appointments also hold an appointment as defined in s. 626.015
1040 by an insurer who is authorized to write and is actually writing
1041 or renewing personal lines residential property coverage,
1042 commercial residential property coverage, or commercial
1043 nonresidential property coverage within the state.

1044 15. Must provide a premium payment plan option to its
1045 policyholders which, at a minimum, allows for quarterly and
1046 semiannual payment of premiums. A monthly payment plan may, but
1047 is not required to, be offered.

1048 16. Must limit coverage on mobile homes or manufactured
1049 homes built before 1994 to actual cash value of the dwelling
1050 rather than replacement costs of the dwelling.

1051 17. Must provide coverage for manufactured or mobile home
1052 dwellings. Such coverage must also include the following
1053 attached structures:

1054 a. Screened enclosures that are aluminum framed or screened



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1055 enclosures that are not covered by the same or substantially the
1056 same materials as those of the primary dwelling;

1057 b. Carports that are aluminum or carports that are not
1058 covered by the same or substantially the same materials as those
1059 of the primary dwelling; and

1060 c. Patios that have a roof covering that is constructed of
1061 materials that are not the same or substantially the same
1062 materials as those of the primary dwelling.

1063

1064 The corporation shall make available a policy for mobile homes
1065 or manufactured homes for a minimum insured value of at least
1066 \$3,000.

1067 18. May provide such limits of coverage as the board
1068 determines, consistent with the requirements of this subsection.

1069 19. May require commercial property to meet specified
1070 hurricane mitigation construction features as a condition of
1071 eligibility for coverage.

1072 20. Must provide that new or renewal policies issued by the
1073 corporation on or after January 1, 2012, which cover sinkhole
1074 loss do not include coverage for any loss to appurtenant
1075 structures, driveways, sidewalks, decks, or patios that are
1076 directly or indirectly caused by sinkhole activity. The
1077 corporation shall exclude such coverage using a notice of
1078 coverage change, which may be included with the policy renewal,
1079 and not by issuance of a notice of nonrenewal of the excluded
1080 coverage upon renewal of the current policy.

1081 21.a. As of January 1, 2012, unless the Citizens account
1082 has been established pursuant to sub-subparagraph (b)2.b., must
1083 require that the agent obtain from an applicant for coverage



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1084 from the corporation an acknowledgment signed by the applicant,
1085 which includes, at a minimum, the following statement:

1086

1087 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE

1088 AND ASSESSMENT LIABILITY:

1089

1090 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
1091 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
1092 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
1093 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
1094 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE
1095 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT
1096 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
1097 LEGISLATURE.

1098 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER
1099 SURCHARGE, WHICH COULD BE AS HIGH AS 45 PERCENT OF MY PREMIUM,
1100 BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO
1101 BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN
1102 PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE
1103 WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES
1104 ARE REGULATED AND APPROVED BY THE STATE.

1105 3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
1106 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
1107 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
1108 FLORIDA LEGISLATURE.

1109 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
1110 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
1111 STATE OF FLORIDA.

1112



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1113 b. The corporation must require, if it has established the
1114 Citizens account pursuant to sub-subparagraph (b)2.b., that the
1115 agent obtain from an applicant for coverage from the corporation
1116 the following acknowledgment signed by the applicant, which
1117 includes, at a minimum, the following statement:

1118
1119 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE
1120 AND ASSESSMENT LIABILITY:
1121

1122 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
1123 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
1124 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
1125 MY POLICY COULD BE SUBJECT TO SURCHARGES AND ASSESSMENTS, WHICH
1126 WILL BE DUE AND PAYABLE UPON RENEWAL, CANCELLATION, OR
1127 TERMINATION OF THE POLICY, AND THAT THE SURCHARGES AND
1128 ASSESSMENTS COULD BE AS HIGH AS 25 PERCENT OF MY PREMIUM, OR A
1129 DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA LEGISLATURE.

1130 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER
1131 SURCHARGE, WHICH COULD BE AS HIGH AS 15 PERCENT OF MY PREMIUM,
1132 BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO
1133 BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN
1134 PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE
1135 WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES
1136 ARE REGULATED AND APPROVED BY THE STATE.

1137 3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
1138 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
1139 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
1140 FLORIDA LEGISLATURE.

1141 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE



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1142 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
1143 STATE OF FLORIDA.

1144
1145 c.a. The corporation shall maintain, in electronic format
1146 or otherwise, a copy of the applicant's signed acknowledgment
1147 and provide a copy of the statement to the policyholder as part
1148 of the first renewal after the effective date of sub-
1149 subparagraph a. or sub-subparagraph b., as applicable ~~this~~
1150 subparagraph.

1151 d.b. The signed acknowledgment form creates a conclusive
1152 presumption that the policyholder understood and accepted his or
1153 her potential surcharge and assessment liability as a
1154 policyholder of the corporation.

1155 (n)1. Rates for coverage provided by the corporation must
1156 be actuarially sound pursuant and subject to s. 627.062 and not
1157 competitive with approved rates charged in the admitted
1158 voluntary market so that the corporation functions as a residual
1159 market mechanism to provide insurance only when insurance cannot
1160 be procured in the voluntary market, except as otherwise
1161 provided in this paragraph. The office shall provide the
1162 corporation such information as would be necessary to determine
1163 whether rates are competitive. The corporation shall file its
1164 recommended rates with the office at least annually. The
1165 corporation shall provide any additional information regarding
1166 the rates which the office requires. The office shall consider
1167 the recommendations of the board and issue a final order
1168 establishing the rates for the corporation within 45 days after
1169 the recommended rates are filed. The corporation may not pursue
1170 an administrative challenge or judicial review of the final



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1171 order of the office.

1172 2. In addition to the rates otherwise determined pursuant
1173 to this paragraph, the corporation shall impose and collect an
1174 amount equal to the premium tax provided in s. 624.509 to
1175 augment the financial resources of the corporation.

1176 3. After the public hurricane loss-projection model under
1177 s. 627.06281 has been found to be accurate and reliable by the
1178 Florida Commission on Hurricane Loss Projection Methodology, the
1179 model shall be considered when establishing the windstorm
1180 portion of the corporation's rates. The corporation may use the
1181 public model results in combination with the results of private
1182 models to calculate rates for the windstorm portion of the
1183 corporation's rates. This subparagraph does not require or allow
1184 the corporation to adopt rates lower than the rates otherwise
1185 required or allowed by this paragraph.

1186 4. The corporation must make a recommended actuarially
1187 sound rate filing for each personal and commercial line of
1188 business it writes.

1189 5. Notwithstanding the board's recommended rates and the
1190 office's final order regarding the corporation's filed rates
1191 under subparagraph 1., the corporation shall annually implement
1192 a rate increase which, except for sinkhole coverage, does not
1193 exceed the following for any single policy issued by the
1194 corporation, excluding coverage changes and surcharges:

- 1195 a. ~~Eleven percent for 2022.~~
- 1196 ~~b.~~ Twelve percent for 2023.
- 1197 ~~b.e.~~ Thirteen percent for 2024.
- 1198 ~~c.d.~~ Fourteen percent for 2025.
- 1199 ~~d.e.~~ Fifteen percent for 2026 and all subsequent years.



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1200 6. The corporation may also implement an increase to
1201 reflect the effect on the corporation of the cash buildup factor
1202 pursuant to s. 215.555(5)(b).

1203 7. The corporation's implementation of rates as prescribed
1204 in subparagraphs 5. and 8. subparagraph 5. shall cease for any
1205 line of business written by the corporation upon the
1206 corporation's implementation of actuarially sound rates.
1207 Thereafter, the corporation shall annually make a recommended
1208 actuarially sound rate filing that is not competitive with
1209 approved rates in the admitted voluntary market for each
1210 commercial and personal line of business the corporation writes.

1211 8. For any new or renewal personal lines policy written on
1212 or after November 1, 2023, which does not cover a primary
1213 residence, the rate to be applied in calculating premium is not
1214 subject to the rate increase limitations in subparagraph 5.
1215 However, the policyholder may not be charged more than 50
1216 percent above, and may not be charged less than, the established
1217 rate for the corporation which was in effect 1 year before the
1218 date of the application.

1219 9. As used in this paragraph, the term "primary residence"
1220 means the dwelling that is the policyholder's primary home or is
1221 a rental property that is the primary home of the tenant, and
1222 which the policyholder or tenant occupies for more than 9 months
1223 of each year.

1224 (o) If coverage in an account, or the Citizens account if
1225 established by the corporation, is deactivated pursuant to
1226 paragraph (p), coverage through the corporation shall be
1227 reactivated by order of the office only under one of the
1228 following circumstances:



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1229 1. If the market assistance plan receives a minimum of 100
1230 applications for coverage within a 3-month period, or 200
1231 applications for coverage within a 1-year period or less for
1232 residential coverage, unless the market assistance plan provides
1233 a quotation from admitted carriers at their filed rates for at
1234 least 90 percent of such applicants. Any market assistance plan
1235 application that is rejected because an individual risk is so
1236 hazardous as to be uninsurable using the criteria specified in
1237 subparagraph (c)8. shall not be included in the minimum
1238 percentage calculation provided herein. In the event that there
1239 is a legal or administrative challenge to a determination by the
1240 office that the conditions of this subparagraph have been met
1241 for eligibility for coverage in the corporation, any eligible
1242 risk may obtain coverage during the pendency of such challenge.

1243 2. In response to a state of emergency declared by the
1244 Governor under s. 252.36, the office may activate coverage by
1245 order for the period of the emergency upon a finding by the
1246 office that the emergency significantly affects the availability
1247 of residential property insurance.

1248 (p)1. The corporation shall file with the office quarterly
1249 statements of financial condition, an annual statement of
1250 financial condition, and audited financial statements in the
1251 manner prescribed by law. In addition, the corporation shall
1252 report to the office monthly on the types, premium, exposure,
1253 and distribution by county of its policies in force, and shall
1254 submit other reports as the office requires to carry out its
1255 oversight of the corporation.

1256 2. The activities of the corporation shall be reviewed at
1257 least annually by the office to determine whether coverage shall



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1258 be deactivated in an account, or in the Citizens account if
1259 established by the corporation, on the basis that the conditions
1260 giving rise to its activation no longer exist.

1261 (q)1. The corporation shall certify to the office its needs
1262 for annual assessments as to a particular calendar year, and for
1263 any interim assessments that it deems to be necessary to sustain
1264 operations as to a particular year pending the receipt of annual
1265 assessments. Upon verification, the office shall approve such
1266 certification, and the corporation shall levy such annual or
1267 interim assessments. Such assessments shall be prorated, if
1268 authority to levy exists, as provided in paragraph (b). The
1269 corporation shall take all reasonable and prudent steps
1270 necessary to collect the amount of assessments due from each
1271 assessable insurer, including, if prudent, filing suit to
1272 collect the assessments, and the office may provide such
1273 assistance to the corporation it deems appropriate. If the
1274 corporation is unable to collect an assessment from any
1275 assessable insurer, the uncollected assessments shall be levied
1276 as an additional assessment against the assessable insurers and
1277 any assessable insurer required to pay an additional assessment
1278 as a result of such failure to pay shall have a cause of action
1279 against such nonpaying assessable insurer. Assessments shall be
1280 included as an appropriate factor in the making of rates. The
1281 failure of a surplus lines agent to collect and remit any
1282 regular or emergency assessment levied by the corporation is
1283 considered to be a violation of s. 626.936 and subjects the
1284 surplus lines agent to the penalties provided in that section.

1285 2. The governing body of any unit of local government, any
1286 residents of which are insured by the corporation, may issue



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1287 bonds as defined in s. 125.013 or s. 166.101 from time to time
1288 to fund an assistance program, in conjunction with the
1289 corporation, for the purpose of defraying deficits of the
1290 corporation. In order to avoid needless and indiscriminate
1291 proliferation, duplication, and fragmentation of such assistance
1292 programs, any unit of local government, any residents of which
1293 are insured by the corporation, may provide for the payment of
1294 losses, regardless of whether or not the losses occurred within
1295 or outside of the territorial jurisdiction of the local
1296 government. Revenue bonds under this subparagraph may not be
1297 issued until validated pursuant to chapter 75, unless a state of
1298 emergency is declared by executive order or proclamation of the
1299 Governor pursuant to s. 252.36 making such findings as are
1300 necessary to determine that it is in the best interests of, and
1301 necessary for, the protection of the public health, safety, and
1302 general welfare of residents of this state and declaring it an
1303 essential public purpose to permit certain municipalities or
1304 counties to issue such bonds as will permit relief to claimants
1305 and policyholders of the corporation. Any such unit of local
1306 government may enter into such contracts with the corporation
1307 and with any other entity created pursuant to this subsection as
1308 are necessary to carry out this paragraph. Any bonds issued
1309 under this subparagraph shall be payable from and secured by
1310 moneys received by the corporation from emergency assessments
1311 under sub-subparagraph (b)3.e. ~~(b)3.d.~~, and assigned and pledged
1312 to or on behalf of the unit of local government for the benefit
1313 of the holders of such bonds. The funds, credit, property, and
1314 taxing power of the state or of the unit of local government
1315 shall not be pledged for the payment of such bonds.



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1316 3.a. The corporation shall adopt one or more programs
1317 subject to approval by the office for the reduction of both new
1318 and renewal writings in the corporation. Beginning January 1,
1319 2008, any program the corporation adopts for the payment of
1320 bonuses to an insurer for each risk the insurer removes from the
1321 corporation shall comply with s. 627.3511(2) and may not exceed
1322 the amount referenced in s. 627.3511(2) for each risk removed.
1323 The corporation may consider any prudent and not unfairly
1324 discriminatory approach to reducing corporation writings, and
1325 may adopt a credit against assessment liability or other
1326 liability that provides an incentive for insurers to take risks
1327 out of the corporation and to keep risks out of the corporation
1328 by maintaining or increasing voluntary writings in counties or
1329 areas in which corporation risks are highly concentrated and a
1330 program to provide a formula under which an insurer voluntarily
1331 taking risks out of the corporation by maintaining or increasing
1332 voluntary writings will be relieved wholly or partially from
1333 assessments under sub-subparagraph (b)3.a. However, any "take-
1334 out bonus" or payment to an insurer must be conditioned on the
1335 property being insured for at least 5 years by the insurer,
1336 unless canceled or nonrenewed by the policyholder. If the policy
1337 is canceled or nonrenewed by the policyholder before the end of
1338 the 5-year period, the amount of the take-out bonus must be
1339 prorated for the time period the policy was insured. When the
1340 corporation enters into a contractual agreement for a take-out
1341 plan, the producing agent of record of the corporation policy is
1342 entitled to retain any unearned commission on such policy, and
1343 the insurer shall either:

1344 (I) Pay to the producing agent of record of the policy, for



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1345 the first year, an amount which is the greater of the insurer's
1346 usual and customary commission for the type of policy written or
1347 a policy fee equal to the usual and customary commission of the
1348 corporation; or

1349 (II) Offer to allow the producing agent of record of the
1350 policy to continue servicing the policy for a period of not less
1351 than 1 year and offer to pay the agent the insurer's usual and
1352 customary commission for the type of policy written. If the
1353 producing agent is unwilling or unable to accept appointment by
1354 the new insurer, the new insurer shall pay the agent in
1355 accordance with sub-sub-subparagraph (I).

1356 b. Any credit or exemption from regular assessments adopted
1357 under this subparagraph shall last no longer than the 3 years
1358 following the cancellation or expiration of the policy by the
1359 corporation. With the approval of the office, the board may
1360 extend such credits for an additional year if the insurer
1361 guarantees an additional year of renewability for all policies
1362 removed from the corporation, or for 2 additional years if the
1363 insurer guarantees 2 additional years of renewability for all
1364 policies so removed.

1365 c. There shall be no credit, limitation, exemption, or
1366 deferment from emergency assessments to be collected from
1367 policyholders pursuant to sub-subparagraph (b)3.e. or sub-
1368 subparagraph (b)5.c. ~~(b)3.d.~~

1369 4. The plan shall provide for the deferment, in whole or in
1370 part, of the assessment of an assessable insurer, other than an
1371 emergency assessment collected from policyholders pursuant to
1372 sub-subparagraph (b)3.e. or sub-subparagraph (b)5.c. ~~(b)3.d.~~, if
1373 the office finds that payment of the assessment would endanger



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1374 or impair the solvency of the insurer. In the event an
1375 assessment against an assessable insurer is deferred in whole or
1376 in part, the amount by which such assessment is deferred may be
1377 assessed against the other assessable insurers in a manner
1378 consistent with the basis for assessments set forth in paragraph
1379 (b).

1380 5. Effective July 1, 2007, in order to evaluate the costs
1381 and benefits of approved take-out plans, if the corporation pays
1382 a bonus or other payment to an insurer for an approved take-out
1383 plan, it shall maintain a record of the address or such other
1384 identifying information on the property or risk removed in order
1385 to track if and when the property or risk is later insured by
1386 the corporation.

1387 6. Any policy taken out, assumed, or removed from the
1388 corporation is, as of the effective date of the take-out,
1389 assumption, or removal, direct insurance issued by the insurer
1390 and not by the corporation, even if the corporation continues to
1391 service the policies. This subparagraph applies to policies of
1392 the corporation and not policies taken out, assumed, or removed
1393 from any other entity.

1394 7. For a policy taken out, assumed, or removed from the
1395 corporation, the insurer may, for a period of no more than 3
1396 years, continue to use any of the corporation's policy forms or
1397 endorsements that apply to the policy taken out, removed, or
1398 assumed without obtaining approval from the office for use of
1399 such policy form or endorsement.

1400 (v)1. Effective July 1, 2002, policies of the Residential
1401 Property and Casualty Joint Underwriting Association become
1402 policies of the corporation. All obligations, rights, assets and



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1403 liabilities of the association, including bonds, note and debt
1404 obligations, and the financing documents pertaining to them
1405 become those of the corporation as of July 1, 2002. The
1406 corporation is not required to issue endorsements or
1407 certificates of assumption to insureds during the remaining term
1408 of in-force transferred policies.

1409 2. Effective July 1, 2002, policies of the Florida
1410 Windstorm Underwriting Association are transferred to the
1411 corporation and become policies of the corporation. All
1412 obligations, rights, assets, and liabilities of the association,
1413 including bonds, note and debt obligations, and the financing
1414 documents pertaining to them are transferred to and assumed by
1415 the corporation on July 1, 2002. The corporation is not required
1416 to issue endorsements or certificates of assumption to insureds
1417 during the remaining term of in-force transferred policies.

1418 3. The Florida Windstorm Underwriting Association and the
1419 Residential Property and Casualty Joint Underwriting Association
1420 shall take all actions necessary to further evidence the
1421 transfers and provide the documents and instruments of further
1422 assurance as may reasonably be requested by the corporation for
1423 that purpose. The corporation shall execute assumptions and
1424 instruments as the trustees or other parties to the financing
1425 documents of the Florida Windstorm Underwriting Association or
1426 the Residential Property and Casualty Joint Underwriting
1427 Association may reasonably request to further evidence the
1428 transfers and assumptions, which transfers and assumptions,
1429 however, are effective on the date provided under this paragraph
1430 whether or not, and regardless of the date on which, the
1431 assumptions or instruments are executed by the corporation.



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1432 Subject to the relevant financing documents pertaining to their
1433 outstanding bonds, notes, indebtedness, or other financing
1434 obligations, the moneys, investments, receivables, choses in
1435 action, and other intangibles of the Florida Windstorm
1436 Underwriting Association shall be credited to the coastal
1437 account of the corporation, and those of the personal lines
1438 residential coverage account and the commercial lines
1439 residential coverage account of the Residential Property and
1440 Casualty Joint Underwriting Association shall be credited to the
1441 personal lines account and the commercial lines account,
1442 respectively, of the corporation.

1443 4. Effective July 1, 2002, a new applicant for property
1444 insurance coverage who would otherwise have been eligible for
1445 coverage in the Florida Windstorm Underwriting Association is
1446 eligible for coverage from the corporation as provided in this
1447 subsection.

1448 5. The transfer of all policies, obligations, rights,
1449 assets, and liabilities from the Florida Windstorm Underwriting
1450 Association to the corporation and the renaming of the
1451 Residential Property and Casualty Joint Underwriting Association
1452 as the corporation does not affect the coverage with respect to
1453 covered policies as defined in s. 215.555(2)(c) provided to
1454 these entities by the Florida Hurricane Catastrophe Fund. The
1455 coverage provided by the fund to the Florida Windstorm
1456 Underwriting Association based on its exposures as of June 30,
1457 2002, and each June 30 thereafter, unless the corporation has
1458 established the Citizens account, shall be redesignated as
1459 coverage for the coastal account of the corporation.
1460 Notwithstanding any other provision of law, the coverage



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1461 provided by the fund to the Residential Property and Casualty
1462 Joint Underwriting Association based on its exposures as of June
1463 30, 2002, and each June 30 thereafter, unless the corporation
1464 has established the Citizens account, shall be transferred to
1465 the personal lines account and the commercial lines account of
1466 the corporation. Notwithstanding any other provision of law, the
1467 coastal account, unless the corporation has established the
1468 Citizens account, shall be treated, for all Florida Hurricane
1469 Catastrophe Fund purposes, as if it were a separate
1470 participating insurer with its own exposures, reimbursement
1471 premium, and loss reimbursement. Likewise, the personal lines
1472 and commercial lines accounts, unless the corporation has
1473 established the Citizens account, shall be viewed together, for
1474 all fund purposes, as if the two accounts were one and represent
1475 a single, separate participating insurer with its own exposures,
1476 reimbursement premium, and loss reimbursement. The coverage
1477 provided by the fund to the corporation shall constitute and
1478 operate as a full transfer of coverage from the Florida
1479 Windstorm Underwriting Association and Residential Property and
1480 Casualty Joint Underwriting Association to the corporation.

1481 (w) Notwithstanding any other provision of law:

1482 1. The pledge or sale of, the lien upon, and the security
1483 interest in any rights, revenues, or other assets of the
1484 corporation created or purported to be created pursuant to any
1485 financing documents to secure any bonds or other indebtedness of
1486 the corporation shall be and remain valid and enforceable,
1487 notwithstanding the commencement of and during the continuation
1488 of, and after, any rehabilitation, insolvency, liquidation,
1489 bankruptcy, receivership, conservatorship, reorganization, or



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1490 similar proceeding against the corporation under the laws of
1491 this state.

1492 2. The proceeding does not relieve the corporation of its
1493 obligation, or otherwise affect its ability to perform its
1494 obligation, to continue to collect, or levy and collect,
1495 assessments, policyholder surcharges or other surcharges under
1496 sub-subparagraph (b)3.j. ~~(b)3.i.~~, or any other rights, revenues,
1497 or other assets of the corporation pledged pursuant to any
1498 financing documents.

1499 3. Each such pledge or sale of, lien upon, and security
1500 interest in, including the priority of such pledge, lien, or
1501 security interest, any such assessments, policyholder surcharges
1502 or other surcharges, or other rights, revenues, or other assets
1503 which are collected, or levied and collected, after the
1504 commencement of and during the pendency of, or after, any such
1505 proceeding shall continue unaffected by such proceeding. As used
1506 in this subsection, the term "financing documents" means any
1507 agreement or agreements, instrument or instruments, or other
1508 document or documents now existing or hereafter created
1509 evidencing any bonds or other indebtedness of the corporation or
1510 pursuant to which any such bonds or other indebtedness has been
1511 or may be issued and pursuant to which any rights, revenues, or
1512 other assets of the corporation are pledged or sold to secure
1513 the repayment of such bonds or indebtedness, together with the
1514 payment of interest on such bonds or such indebtedness, or the
1515 payment of any other obligation or financial product, as defined
1516 in the plan of operation of the corporation related to such
1517 bonds or indebtedness.

1518 4. Any such pledge or sale of assessments, revenues,



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1519 contract rights, or other rights or assets of the corporation
1520 shall constitute a lien and security interest, or sale, as the
1521 case may be, that is immediately effective and attaches to such
1522 assessments, revenues, or contract rights or other rights or
1523 assets, whether or not imposed or collected at the time the
1524 pledge or sale is made. Any such pledge or sale is effective,
1525 valid, binding, and enforceable against the corporation or other
1526 entity making such pledge or sale, and valid and binding against
1527 and superior to any competing claims or obligations owed to any
1528 other person or entity, including policyholders in this state,
1529 asserting rights in any such assessments, revenues, or contract
1530 rights or other rights or assets to the extent set forth in and
1531 in accordance with the terms of the pledge or sale contained in
1532 the applicable financing documents, whether or not any such
1533 person or entity has notice of such pledge or sale and without
1534 the need for any physical delivery, recordation, filing, or
1535 other action.

1536 5. As long as the corporation has any bonds outstanding,
1537 the corporation may not file a voluntary petition under chapter
1538 9 of the federal Bankruptcy Code or such corresponding chapter
1539 or sections as may be in effect, from time to time, and a public
1540 officer or any organization, entity, or other person may not
1541 authorize the corporation to be or become a debtor under chapter
1542 9 of the federal Bankruptcy Code or such corresponding chapter
1543 or sections as may be in effect, from time to time, during any
1544 such period.

1545 6. If ordered by a court of competent jurisdiction, the
1546 corporation may assume policies or otherwise provide coverage
1547 for policyholders of an insurer placed in liquidation under



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1548 chapter 631, under such forms, rates, terms, and conditions as
1549 the corporation deems appropriate, subject to approval by the
1550 office.

1551 (aa) Except as otherwise provided in this paragraph, the
1552 corporation shall ~~not~~ require the securing and maintaining of
1553 flood insurance as a condition of coverage of a personal lines
1554 residential risk. ~~if~~ The insured or applicant must execute
1555 ~~executes~~ a form approved by the office affirming that flood
1556 insurance is not provided by the corporation and that if flood
1557 insurance is not secured by the applicant or insured from an
1558 insurer other than the corporation and in addition to coverage
1559 by the corporation, the risk will not be eligible for coverage
1560 by the corporation covered for flood damage. A corporation
1561 policyholder electing not to secure flood insurance and
1562 executing a form as provided herein making a claim for water
1563 damage against the corporation shall have the burden of proving
1564 the damage was not caused by flooding. Notwithstanding other
1565 provisions of this subsection, The corporation may deny coverage
1566 of a personal lines residential risk to an applicant or insured
1567 who refuses to secure and maintain flood insurance ~~execute the~~
1568 form described herein. The requirement to purchase flood
1569 insurance shall be implemented as follows:

1570 1. Except as provided in subparagraphs 2. and 3., all
1571 personal lines residential policyholders must have flood
1572 coverage in place for policies effective on or after:

1573 a. January 1, 2024, for property valued at \$600,000 or
1574 more.

1575 b. January 1, 2025, for property valued at \$500,000 or
1576 more.



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1577 c. January 1, 2026, for property valued at \$400,000 or
1578 more.

1579 d. January 1, 2027, for all other personal lines
1580 residential property insured by the corporation.

1581 2. All personal lines residential policyholders whose
1582 property insured by the corporation is located within the
1583 special flood hazard area defined by the Federal Emergency
1584 Management Agency must have flood coverage in place:

1585 a. At the time of initial policy issuance for all new
1586 personal lines residential policies issued by the corporation on
1587 or after April 1, 2023.

1588 b. By the time of the policy renewal for all personal lines
1589 residential policies renewing on or after July 1, 2023.

1590 3. Policyholders whose policies issued by the corporation
1591 do not provide coverage for the peril of wind are not required
1592 to purchase flood insurance as a condition for maintaining their
1593 policies with the corporation.

1594
1595 The flood insurance required under this paragraph must meet, at
1596 a minimum, the coverage available from the National Flood
1597 Insurance Program or the requirements of subparagraphs s.
1598 627.715(1)(a)1., 2., and 3.

1599 (ii) The corporation shall revise the programs adopted
1600 pursuant to sub-subparagraph (q)3.a. for personal lines
1601 residential policies to maximize policyholder options and
1602 encourage increased participation by insurers and agents. After
1603 January 1, 2017, a policy may not be taken out of the
1604 corporation unless the provisions of this paragraph are met.

1605 1. The corporation must publish a periodic schedule of



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1606 cycles during which an insurer may identify, and notify the
1607 corporation of, policies that the insurer is requesting to take
1608 out. A request must include a description of the coverage
1609 offered and an estimated premium and must be submitted to the
1610 corporation in a form and manner prescribed by the corporation.

1611 2. The corporation must maintain and make available to the
1612 agent of record a consolidated list of all insurers requesting
1613 to take out a policy. The list must include a description of the
1614 coverage offered and the estimated premium for each take-out
1615 request.

1616 3. If a policyholder receives a take-out offer from an
1617 authorized insurer, the risk is no longer eligible for coverage
1618 with the corporation unless the premium for coverage from the
1619 authorized insurer is more 20 percent greater than the renewal
1620 premium for comparable coverage from the corporation pursuant to
1621 sub-subparagraph (c)5.c. This subparagraph applies to take-out
1622 offers that are part of an application to participate in
1623 depopulation submitted to the office on or after January 1,
1624 2023.

1625 4. The corporation must provide written notice to the
1626 policyholder and the agent of record regarding all insurers
1627 requesting to take out the policy ~~and regarding the~~
1628 ~~policyholder's option to accept a take-out offer or to reject~~
1629 ~~all take-out offers and to remain with the corporation.~~ The
1630 notice must be in a format prescribed by the corporation and
1631 include, for each take-out offer:

- 1632 a. The amount of the estimated premium;
1633 b. A description of the coverage; and
1634 c. A comparison of the estimated premium and coverage



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1635 offered by the insurer to the estimated premium and coverage
1636 provided by the corporation.

1637 (kk) A corporation policyholder making a claim for water
1638 damage against the corporation has the burden of proving that
1639 the damage was not caused by flooding.

1640 Section 9. Paragraph (s) of subsection (6) of section
1641 627.351, Florida Statutes, is amended to read:

1642 627.351 Insurance risk apportionment plans.—

1643 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

1644 (s)1. There shall be no liability on the part of, and no
1645 cause of action of any nature shall arise against, any
1646 assessable insurer or its agents or employees, the corporation
1647 or its agents or employees, members of the board of governors or
1648 their respective designees at a board meeting, corporation
1649 committee members, or the office or its representatives, for any
1650 action taken by them in the performance of their duties or
1651 responsibilities under this subsection. Such immunity does not
1652 apply to:

1653 a. Any of the foregoing persons or entities for any willful
1654 tort;

1655 b. The corporation or its producing agents for breach of
1656 any contract or agreement pertaining to insurance coverage;

1657 c. The corporation with respect to issuance or payment of
1658 debt;

1659 d. Any assessable insurer with respect to any action to
1660 enforce an assessable insurer's obligations to the corporation
1661 under this subsection; or

1662 e. The corporation in any pending or future action for
1663 breach of contract or for benefits under a policy issued by the



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1664 corporation; in any such action, the corporation shall be liable
1665 to the policyholders and beneficiaries for attorney's fees under
1666 s. 627.428.

1667 2. The corporation shall manage its claim employees,
1668 independent adjusters, and others who handle claims to ensure
1669 they carry out the corporation's duty to its policyholders to
1670 handle claims carefully, timely, diligently, and in good faith,
1671 balanced against the corporation's duty to the state to manage
1672 its assets responsibly to minimize its assessment potential.

1673 Section 10. Paragraphs (b) and (c) of subsection (3) and
1674 paragraphs (d), (e), and (f) of subsection (6) of section
1675 627.3511, Florida Statutes, are amended to read:

1676 627.3511 Depopulation of Citizens Property Insurance
1677 Corporation.—

1678 (3) EXEMPTION FROM DEFICIT ASSESSMENTS.—

1679 (b) An insurer that first wrote personal lines residential
1680 property coverage in this state on or after July 1, 1994, is
1681 exempt from regular deficit assessments imposed pursuant to s.
1682 627.351(6)(b)3.a., but not emergency assessments collected from
1683 policyholders pursuant to s. 627.351(6)(b)3.e. ~~s.~~

1684 ~~627.351(6)(b)3.d.~~, of the Citizens Property Insurance
1685 Corporation until the earlier of the following:

1686 1. The end of the calendar year in which it first wrote 0.5
1687 percent or more of the statewide aggregate direct written
1688 premium for any line of residential property coverage; or

1689 2. December 31, 1997, or December 31 of the third year in
1690 which it wrote such coverage in this state, whichever is later.

1691 (c) Other than an insurer that is exempt under paragraph
1692 (b), an insurer that in any calendar year increases its total



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1693 structure exposure subject to wind coverage by 25 percent or
1694 more over its exposure for the preceding calendar year is, with
1695 respect to that year, exempt from deficit assessments imposed
1696 pursuant to s. 627.351(6)(b)3.a., but not emergency assessments
1697 collected from policyholders pursuant to s. 627.351(6)(b)3.e. ~~s.~~
1698 ~~627.351(6)(b)3.d.~~, of the Citizens Property Insurance
1699 Corporation attributable to such increase in exposure.

1700 (6) COMMERCIAL RESIDENTIAL TAKE-OUT PLANS.—

1701 (d) The calculation of an insurer's regular assessment
1702 liability under s. 627.351(6)(b)3.a., but not emergency
1703 assessments collected from policyholders pursuant to s.
1704 627.351(6)(b)3.e. ~~s. 627.351(6)(b)3.d.~~, shall, with respect to
1705 commercial residential policies removed from the corporation
1706 under an approved take-out plan, exclude such removed policies
1707 for the succeeding 3 years, as follows:

1708 1. In the first year following removal of the policies, the
1709 policies are excluded from the calculation to the extent of 100
1710 percent.

1711 2. In the second year following removal of the policies,
1712 the policies are excluded from the calculation to the extent of
1713 75 percent.

1714 3. In the third year following removal of the policies, the
1715 policies are excluded from the calculation to the extent of 50
1716 percent.

1717 (e) An insurer that first wrote commercial residential
1718 property coverage in this state on or after June 1, 1996, is
1719 exempt from regular assessments under s. 627.351(6)(b)3.a., but
1720 not emergency assessments collected from policyholders pursuant
1721 to s. 627.351(6)(b)3.e. ~~s. 627.351(6)(b)3.d.~~, with respect to



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1722 commercial residential policies until the earlier of:
1723 1. The end of the calendar year in which such insurer first
1724 wrote 0.5 percent or more of the statewide aggregate direct
1725 written premium for commercial residential property coverage; or
1726 2. December 31 of the third year in which such insurer
1727 wrote commercial residential property coverage in this state.
1728 (f) An insurer that is not otherwise exempt from regular
1729 assessments under s. 627.351(6)(b)3.a. with respect to
1730 commercial residential policies is, for any calendar year in
1731 which such insurer increased its total commercial residential
1732 hurricane exposure by 25 percent or more over its exposure for
1733 the preceding calendar year, exempt from regular assessments
1734 under s. 627.351(6)(b)3.a., but not emergency assessments
1735 collected from policyholders pursuant to s. 627.351(6)(b)3.e. ~~s.~~
1736 ~~627.351(6)(b)3.d.~~, attributable to such increased exposure.
1737 Section 11. Effective January 1, 2023, subsection (5) of
1738 section 627.3518, Florida Statutes, is amended to read:
1739 627.3518 Citizens Property Insurance Corporation
1740 policyholder eligibility clearinghouse program.—The purpose of
1741 this section is to provide a framework for the corporation to
1742 implement a clearinghouse program by January 1, 2014.
1743 (5) Notwithstanding s. 627.3517, any applicant for new
1744 coverage from the corporation is not eligible for coverage from
1745 the corporation if provided an offer of coverage from an
1746 authorized insurer through the program at a premium that is at
1747 or below the eligibility threshold for applicants for new
1748 coverage established in s. 627.351(6)(c)5.a. Whenever an offer
1749 of coverage for a personal lines risk is received for a
1750 policyholder of the corporation at renewal from an authorized



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1751 insurer through the program which is at or below the eligibility
1752 threshold for policyholders of the corporation established in s.
1753 627.351(6)(c)5.a., if the offer is equal to or less than the
1754 corporation's renewal premium for comparable coverage, the risk
1755 is not eligible for coverage with the corporation. In the event
1756 an offer of coverage for a new applicant is received from an
1757 authorized insurer through the program, and the premium offered
1758 exceeds the eligibility threshold for applicants for new
1759 coverage established ~~contained~~ in s. 627.351(6)(c)5.a., the
1760 applicant or insured may elect to accept such coverage, or may
1761 elect to accept or continue coverage with the corporation. In
1762 the event an offer of coverage for a personal lines risk is
1763 received from an authorized insurer at renewal through the
1764 program, and the premium offered exceeds the eligibility
1765 threshold for policyholders of the corporation established in s.
1766 627.351(6)(c)5.a. is more than the corporation's renewal premium
1767 for comparable coverage, the insured may elect to accept such
1768 coverage, or may elect to accept or continue coverage with the
1769 corporation. Section 627.351(6)(c)5.a.(I) does not apply to an
1770 offer of coverage from an authorized insurer obtained through
1771 the program. ~~An applicant for coverage from the corporation who~~
1772 ~~was declared ineligible for coverage at renewal by the~~
1773 ~~corporation in the previous 36 months due to an offer of~~
1774 ~~coverage pursuant to this subsection shall be considered a~~
1775 ~~renewal under this section if the corporation determines that~~
1776 ~~the authorized insurer making the offer of coverage pursuant to~~
1777 ~~this subsection continues to insure the applicant and increased~~
1778 ~~the rate on the policy in excess of the increase allowed for the~~
1779 ~~corporation under s. 627.351(6)(n)5.~~



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1780 Section 12. Subsection (3) of section 627.410, Florida
1781 Statutes, is amended to read:

1782 627.410 Filing, approval of forms.—

1783 (3) The office may, for cause, withdraw a previous
1784 approval. No insurer shall issue or use any form disapproved by
1785 the office, or as to which the office has withdrawn approval,
1786 after the effective date of the order of the office. Based on a
1787 finding from a market conduct examination of a property insurer
1788 that the insurer has exhibited a pattern or practice of one or
1789 more willful unfair insurance trade practice violations with
1790 regard to its use of appraisal, the office shall reexamine the
1791 insurer's property insurance policy forms that contain an
1792 appraisal clause, and the office may:

1793 (a) Withdraw approval of the forms, if warranted by the
1794 Florida Insurance Code.

1795 (b) In addition to any regulatory action under ss. 624.418
1796 and 624.4211, issue an order prohibiting the insurer from
1797 invoking appraisal for up to 2 years.

1798 Section 13. Subsections (1) and (4) of section 627.428,
1799 Florida Statutes, are amended to read:

1800 627.428 Attorney fees.—

1801 (1) Except as provided in subsection (4), upon the
1802 rendition of a judgment or decree by any of the courts of this
1803 state against an insurer and in favor of any named or omnibus
1804 insured or the named beneficiary under a policy or contract
1805 executed by the insurer, the trial court or, in the event of an
1806 appeal in which the insured or beneficiary prevails, the
1807 appellate court shall adjudge or decree against the insurer and
1808 in favor of the insured or beneficiary a reasonable sum as fees



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1809 or compensation for the insured's or beneficiary's attorney
1810 prosecuting the suit in which the recovery is had. ~~In a suit~~
1811 ~~arising under a residential or commercial property insurance~~
1812 ~~policy, the amount of reasonable attorney fees shall be awarded~~
1813 ~~only as provided in s. 57.105 or s. 627.70152, as applicable.~~

1814 (4) In a suit arising under a residential or commercial
1815 property insurance policy, there is no the right to attorney
1816 fees under this section ~~may not be transferred to, assigned to,~~
1817 ~~or acquired in any other manner by anyone other than a named or~~
1818 ~~omnibus insured or a named beneficiary.~~

1819 Section 14. Paragraph (b) of subsection (4) of section
1820 627.7011, Florida Statutes, is amended to read:

1821 627.7011 Homeowners' policies; offer of replacement cost
1822 coverage and law and ordinance coverage.-

1823 (4)

1824 (b) An insurer that issues a homeowner's insurance policy
1825 that does not provide flood insurance coverage must include on
1826 the policy declarations page ~~with the policy documents~~ at
1827 initial issuance and every renewal, in bold type no smaller than
1828 18 points, the following statement:

1829
1830 "FLOOD INSURANCE: YOU SHOULD ~~MAY ALSO NEED TO~~ CONSIDER
1831 THE PURCHASE OF FLOOD INSURANCE. YOUR HOMEOWNER'S
1832 INSURANCE POLICY DOES NOT INCLUDE COVERAGE FOR DAMAGE
1833 RESULTING FROM FLOOD EVEN IF HURRICANE WINDS AND RAIN
1834 CAUSED THE FLOOD TO OCCUR. WITHOUT SEPARATE FLOOD
1835 INSURANCE COVERAGE, YOUR ~~YOU MAY HAVE~~ UNCOVERED LOSSES
1836 CAUSED BY FLOOD ARE NOT COVERED. PLEASE DISCUSS THE
1837 NEED TO PURCHASE SEPARATE FLOOD INSURANCE COVERAGE



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1838 WITH YOUR INSURANCE AGENT.”

1839

1840 Section 15. Effective March 1, 2023, present subsection (8)
1841 of section 627.70131, Florida Statutes, is redesignated as
1842 subsection (9), a new subsection (8) is added to that section,
1843 and paragraph (a) of subsection (1), subsections (3), (4), and
1844 (5), and paragraph (a) of subsection (7) of that section are
1845 amended, to read:

1846 627.70131 Insurer's duty to acknowledge communications
1847 regarding claims; investigation.—

1848 (1) (a) Upon an insurer's receiving a communication with
1849 respect to a claim, the insurer shall, within 7 ~~14~~ calendar
1850 days, review and acknowledge receipt of such communication
1851 unless payment is made within that period of time or unless the
1852 failure to acknowledge is caused by factors beyond the control
1853 of the insurer ~~which reasonably prevent such acknowledgment~~. If
1854 the acknowledgment is not in writing, a notification indicating
1855 acknowledgment shall be made in the insurer's claim file and
1856 dated. A communication made to or by a representative of an
1857 insurer with respect to a claim shall constitute communication
1858 to or by the insurer.

1859 (3) (a) Unless otherwise provided by the policy of insurance
1860 or by law, within 7 ~~14~~ days after an insurer receives proof-of-
1861 loss statements, the insurer shall begin such investigation as
1862 is reasonably necessary unless the failure to begin such
1863 investigation is caused by factors beyond the control of the
1864 insurer ~~which reasonably prevent the commencement of such~~
1865 ~~investigation~~.

1866 (b) If such investigation involves a physical inspection of



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1867 the property, the licensed adjuster assigned by the insurer must
1868 provide the policyholder with a printed or electronic document
1869 containing his or her name and state adjuster license number.

1870 ~~For claims other than those subject to a hurricane deductible,~~
1871 An insurer must conduct any such physical inspection within 30
1872 ~~45~~ days after its receipt of the proof-of-loss statements.

1873 (c) Any subsequent communication with the policyholder
1874 regarding the claim must also include the name and license
1875 number of the adjuster communicating about the claim.

1876 Communication of the adjuster's name and license number may be
1877 included with other information provided to the policyholder.

1878 (d) An insurer may use electronic methods to investigate
1879 the loss. Such electronic methods may include any method that
1880 provides the insurer with clear, color pictures or video
1881 documenting the loss, including, but not limited to, electronic
1882 photographs or video recordings of the loss, video conferencing
1883 between the adjuster and the policyholder which includes video
1884 recording of the loss, and video recordings or photographs of
1885 the loss using a drone, driverless vehicle, or other machine
1886 that can move independently or through remote control. The
1887 insurer also may allow the policyholder to use such methods to
1888 assist in the investigation of the loss. An insurer may void the
1889 insurance policy if the policyholder or any other person at the
1890 direction of the policyholder, with intent to injure, defraud,
1891 or deceive any insurer, commits insurance fraud by providing
1892 false, incomplete, or misleading information concerning any fact
1893 or thing material to a claim using electronic methods. The use
1894 of electronic methods to investigate the loss does not prohibit
1895 an insurer from assigning a licensed adjuster to physically



1896 inspect the property.

1897 ~~(e) Within 7 days after the insurer's assignment of an~~
1898 ~~adjuster to the claim, The insurer must send notify the~~
1899 ~~policyholder that he or she may request a copy of any detailed~~
1900 ~~estimate of the amount of the loss within 7 days after the~~
1901 ~~estimate is generated by an insurer's adjuster. ~~After receiving~~~~
1902 ~~such a request from the policyholder, the insurer must send any~~
1903 ~~such detailed estimate to the policyholder within the later of 7~~
1904 ~~days after the insurer received the request or 7 days after the~~
1905 ~~detailed estimate of the amount of the loss is completed. This~~
1906 paragraph does not require that an insurer create a detailed
1907 estimate of the amount of the loss if such estimate is not
1908 reasonably necessary as part of the claim investigation.

1909 (4) An insurer shall maintain:

1910 (a) A record or log of each adjuster who communicates with
1911 the policyholder as provided in paragraphs (3)(b) and (c) and
1912 provide a list of such adjusters to the insured, office, or
1913 department upon request.

1914 (b) Claim records, including dates, of:

1915 1. Any claim-related communication made between the insurer
1916 and the policyholder or the policyholder's representative;

1917 2. The insurer's receipt of the policyholder's proof of
1918 loss statement;

1919 3. Any claim-related request for information made by the
1920 insurer to the policyholder or the policyholder's
1921 representative;

1922 4. Any claim-related inspections of the property made by
1923 the insurer, including physical inspections and inspections made
1924 by electronic means;



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1925 5. Any detailed estimate of the amount of the loss
1926 generated by the insurer's adjuster;
1927 6. The beginning and end of any tolling period provided for
1928 in subsection (8); and
1929 7. The insurer's payment or denial of the claim.
1930 (5) For purposes of this section, the term:
1931 (a) "Factors beyond the control of the insurer" means:
1932 1. Any of the following events that is the basis for the
1933 office issuing an order finding that such event renders all or
1934 specified residential property insurers reasonably unable to
1935 meet the requirements of this section in specified locations and
1936 ordering that such insurer or insurers may have additional time
1937 as specified by the office to comply with the requirements of
1938 this section: a state of emergency declared by the Governor
1939 under s. 252.36, a breach of security that must be reported
1940 under s. 501.171(3), or an information technology issue. The
1941 office may not extend the period for payment or denial of a
1942 claim for more than 30 additional days.
1943 2. Actions by the policyholder or the policyholder's
1944 representative which constitute fraud, lack of cooperation, or
1945 intentional misrepresentation regarding the claim for which
1946 benefits are owed when such actions reasonably prevent the
1947 insurer from complying with any requirement of this section.
1948 (b) "Insurer" means any residential property insurer.
1949 (7) (a) Within 45 ~~90~~ days after an insurer receives notice
1950 of an initial, reopened, or supplemental property insurance
1951 claim from a policyholder, the insurer shall pay or deny such
1952 claim or a portion of the claim unless the failure to pay is
1953 caused by factors beyond the control of the insurer ~~which~~



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1954 ~~reasonably prevent such payment.~~ The insurer shall provide a
1955 reasonable explanation in writing to the policyholder of the
1956 basis in the insurance policy, in relation to the facts or
1957 applicable law, for the payment, denial, or partial denial of a
1958 claim. If the insurer's claim payment is less than specified in
1959 any insurer's detailed estimate of the amount of the loss, the
1960 insurer must provide a reasonable explanation in writing of the
1961 difference to the policyholder. Any payment of an initial or
1962 supplemental claim or portion of such claim made 45 ~~90~~ days
1963 after the insurer receives notice of the claim, or made ~~more~~
1964 ~~than 15 days~~ after the expiration of any additional timeframe
1965 provided to pay or deny a claim or a portion of a claim made
1966 pursuant to an order of the office finding ~~there are no longer~~
1967 factors beyond the control of the insurer ~~which reasonably~~
1968 ~~prevented such payment,~~ whichever is later, bears interest at
1969 the rate set forth in s. 55.03. Interest begins to accrue from
1970 the date the insurer receives notice of the claim. The
1971 provisions of this subsection may not be waived, voided, or
1972 nullified by the terms of the insurance policy. If there is a
1973 right to prejudgment interest, the insured must select whether
1974 to receive prejudgment interest or interest under this
1975 subsection. Interest is payable when the claim or portion of the
1976 claim is paid. Failure to comply with this subsection
1977 constitutes a violation of this code. However, failure to comply
1978 with this subsection does not form the sole basis for a private
1979 cause of action.

1980 (8) The requirements of this section are tolled:

1981 (a) During the pendency of any mediation proceeding under
1982 s. 627.7015 or any alternative dispute resolution proceeding



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1983 provided for in the insurance contract. The tolling period ends
1984 upon the end of the mediation or alternative dispute resolution
1985 proceeding.

1986 (b) Upon the failure of a policyholder or a representative
1987 of the policyholder to provide material claims information
1988 requested by the insurer within 10 days after the request was
1989 received. The tolling period ends upon the insurer's receipt of
1990 the requested information. Tolling under this paragraph applies
1991 only to requests sent by the insurer to the policyholder or a
1992 representative of the policyholder at least 15 days before the
1993 insurer is required to pay or deny the claim or a portion of the
1994 claim under subsection (7).

1995 Section 16. Subsection (2) of section 627.70132, Florida
1996 Statutes, is amended to read:

1997 627.70132 Notice of property insurance claim.—

1998 (2) A claim or reopened claim, but not a supplemental
1999 claim, under an insurance policy that provides property
2000 insurance, as defined in s. 624.604, including a property
2001 insurance policy issued by an eligible surplus lines insurer,
2002 for loss or damage caused by any peril is barred unless notice
2003 of the claim was given to the insurer in accordance with the
2004 terms of the policy within 1 year ~~2 years~~ after the date of
2005 loss. A supplemental claim is barred unless notice of the
2006 supplemental claim was given to the insurer in accordance with
2007 the terms of the policy within 18 months ~~3 years~~ after the date
2008 of loss.

2009 Section 17. Subsections (1), (2), (6), and (8) of section
2010 627.70152, Florida Statutes, are amended to read:

2011 627.70152 Suits arising under a property insurance policy.—



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2012 (1) APPLICATION.—This section applies exclusively to all
2013 suits ~~not brought by an assignee~~ arising under a residential or
2014 commercial property insurance policy, including a residential or
2015 commercial property insurance policy issued by an eligible
2016 surplus lines insurer.

2017 (2) DEFINITIONS.—As used in this section, the term:

2018 (a) ~~“Amount obtained” means damages recovered, if any, but~~
2019 ~~the term does not include any amount awarded for attorney fees,~~
2020 ~~costs, or interest.~~

2021 ~~(b)~~ “Claimant” means an insured who is filing suit under a
2022 residential or commercial property insurance policy.

2023 ~~(b)~~ ~~(e)~~ “Disputed amount” means the difference between the
2024 claimant’s presuit settlement demand, not including attorney
2025 fees and costs listed in the demand, and the insurer’s presuit
2026 settlement offer, not including attorney fees and costs, if part
2027 of the offer.

2028 ~~(c)~~ ~~(d)~~ “Presuit settlement demand” means the demand made by
2029 the claimant in the written notice of intent to initiate
2030 litigation as required by paragraph (3) (a). The demand must
2031 include the amount of reasonable and necessary attorney fees and
2032 costs incurred by the claimant, to be calculated by multiplying
2033 the number of hours actually worked on the claim by the
2034 claimant’s attorney as of the date of the notice by a reasonable
2035 hourly rate.

2036 ~~(d)~~ ~~(e)~~ “Presuit settlement offer” means the offer made by
2037 the insurer in its written response to the notice as required by
2038 subsection (3).

2039 (6) ADMISSIBILITY OF NOTICE AND RESPONSE.—The notice
2040 provided pursuant to subsection (3) and, if applicable, the



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2041 documentation to support the information provided in the notice:

2042 (a) Are not admissible as evidence ~~only~~ in any a proceeding
2043 regarding attorney fees.

2044 (b) ~~Do not limit the evidence of attorney fees or costs,~~
2045 ~~damages, or loss which may be offered at trial.~~

2046 ~~(c)~~ Do not relieve any obligation that an insured or
2047 assignee has to give notice under any other provision of law.

2048 ~~(8) ATTORNEY FEES.—~~

2049 ~~(a) In a suit arising under a residential or commercial~~
2050 ~~property insurance policy not brought by an assignee, the amount~~
2051 ~~of reasonable attorney fees and costs under s. 626.9373(1) or s.~~
2052 ~~627.428(1) shall be calculated and awarded as follows:~~

2053 1. ~~If the difference between the amount obtained by the~~
2054 ~~claimant and the presuit settlement offer, excluding reasonable~~
2055 ~~attorney fees and costs, is less than 20 percent of the disputed~~
2056 ~~amount, each party pays its own attorney fees and costs and a~~
2057 ~~claimant may not be awarded attorney fees under s. 626.9373(1)~~
2058 ~~or s. 627.428(1).~~

2059 2. ~~If the difference between the amount obtained by the~~
2060 ~~claimant and the presuit settlement offer, excluding reasonable~~
2061 ~~attorney fees and costs, is at least 20 percent but less than 50~~
2062 ~~percent of the disputed amount, the insurer pays the claimant's~~
2063 ~~attorney fees and costs under s. 626.9373(1) or s. 627.428(1)~~
2064 ~~equal to the percentage of the disputed amount obtained times~~
2065 ~~the total attorney fees and costs.~~

2066 3. ~~If the difference between the amount obtained by the~~
2067 ~~claimant and the presuit settlement offer, excluding reasonable~~
2068 ~~attorney fees and costs, is at least 50 percent of the disputed~~
2069 ~~amount, the insurer pays the claimant's full attorney fees and~~



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2070 ~~costs under s. 626.9373(1) or s. 627.428(1).~~

2071 ~~(b) In a suit arising under a residential or commercial~~
2072 ~~property insurance policy not brought by an assignee, if a court~~
2073 ~~dismisses a claimant's suit pursuant to subsection (5), the~~
2074 ~~court may not award to the claimant any incurred attorney fees~~
2075 ~~for services rendered before the dismissal of the suit. When a~~
2076 ~~claimant's suit is dismissed pursuant to subsection (5), the~~
2077 ~~court may award to the insurer reasonable attorney fees and~~
2078 ~~costs associated with securing the dismissal.~~

2079 ~~(c) In awarding attorney fees under this subsection, a~~
2080 ~~strong presumption is created that a lodestar fee is sufficient~~
2081 ~~and reasonable. Such presumption may be rebutted only in a rare~~
2082 ~~and exceptional circumstance with evidence that competent~~
2083 ~~counsel could not be retained in a reasonable manner.~~

2084 Section 18. Section 627.70154, Florida Statutes, is created
2085 to read:

2086 627.70154 Mandatory binding arbitration.—A property
2087 insurance policy issued in this state may not require that a
2088 policyholder participate in mandatory binding arbitration unless
2089 all of the following apply:

2090 (1) The mandatory binding arbitration requirements are
2091 contained in a separate endorsement attached to the property
2092 insurance policy.

2093 (2) The premium that a policyholder is charged for the
2094 policy includes an actuarially sound credit or premium discount
2095 for the mandatory binding arbitration endorsement.

2096 (3) The policyholder signs a form electing to accept
2097 mandatory binding arbitration. The form must notify the
2098 policyholder of the rights given up in exchange for the credit



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2099 or premium discount, including, but not limited to, the right to
2100 a trial by jury.

2101 (4) The endorsement establishes that an insurer will comply
2102 with the mediation provisions set forth in s. 627.7015 before
2103 the initiation of arbitration.

2104 (5) The insurer also offers the policyholder a policy that
2105 does not require that the policyholder participate in mandatory
2106 binding arbitration.

2107 Section 19. Subsections (9), (14), and (15) of section
2108 627.7074, Florida Statutes, are amended to read:

2109 627.7074 Alternative procedure for resolution of disputed
2110 sinkhole insurance claims.-

2111 (9) Evidence of an offer to settle a claim during the
2112 neutral evaluation process, as well as any relevant conduct or
2113 statements made in negotiations concerning the offer to settle a
2114 claim, is inadmissible to prove liability or absence of
2115 liability for the claim or its value, ~~except as provided in~~
2116 ~~subsection (14).~~

2117 ~~(14) If the neutral evaluator verifies the existence of a~~
2118 ~~sinkhole that caused structural damage and recommends the need~~
2119 ~~for and estimates costs of stabilizing the land and any covered~~
2120 ~~buildings and other appropriate remediation or building repairs~~
2121 ~~which exceed the amount that the insurer has offered to pay the~~
2122 ~~policyholder, the insurer is liable to the policyholder for up~~
2123 ~~to \$2,500 in attorney's fees for the attorney's participation in~~
2124 ~~the neutral evaluation process. For purposes of this subsection,~~
2125 ~~the term "offer to pay" means a written offer signed by the~~
2126 ~~insurer or its legal representative and delivered to the~~
2127 ~~policyholder within 10 days after the insurer receives notice~~



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2128 ~~that a request for neutral evaluation has been made under this~~
2129 ~~section.~~

2130 ~~(15)~~ If the insurer timely agrees in writing to comply and
2131 timely complies with the recommendation of the neutral
2132 evaluator, but the policyholder declines to resolve the matter
2133 in accordance with the recommendation of the neutral evaluator
2134 pursuant to this section:

2135 (a) The insurer is not liable for extracontractual damages
2136 related to a claim for a sinkhole loss but only as related to
2137 the issues determined by the neutral evaluation process. This
2138 section does not affect or impair claims for extracontractual
2139 damages unrelated to the issues determined by the neutral
2140 evaluation process contained in this section; and

2141 (b) The actions of the insurer are not a confession of
2142 judgment or admission of liability, ~~and the insurer is not~~
2143 ~~liable for attorney's fees under s. 627.428 or other provisions~~
2144 ~~of the insurance code unless the policyholder obtains a judgment~~
2145 ~~that is more favorable than the recommendation of the neutral~~
2146 ~~evaluator.~~

2147 Section 20. Effective March 1, 2023, section 627.7142,
2148 Florida Statutes, is amended to read:

2149 627.7142 Homeowner Claims Bill of Rights.—An insurer
2150 issuing a personal lines residential property insurance policy
2151 in this state must provide a Homeowner Claims Bill of Rights to
2152 a policyholder within 14 days after receiving an initial
2153 communication with respect to a claim. The purpose of the bill
2154 of rights is to summarize, in simple, nontechnical terms,
2155 existing Florida law regarding the rights of a personal lines
2156 residential property insurance policyholder who files a claim of



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2157 loss. The Homeowner Claims Bill of Rights is specific to the
2158 claims process and does not represent all of a policyholder's
2159 rights under Florida law regarding the insurance policy. The
2160 Homeowner Claims Bill of Rights does not create a civil cause of
2161 action by any individual policyholder or class of policyholders
2162 against an insurer or insurers. The failure of an insurer to
2163 properly deliver the Homeowner Claims Bill of Rights is subject
2164 to administrative enforcement by the office but is not
2165 admissible as evidence in a civil action against an insurer. The
2166 Homeowner Claims Bill of Rights does not enlarge, modify, or
2167 contravene statutory requirements, including, but not limited
2168 to, ss. 626.854, 626.9541, 627.70131, 627.7015, and 627.7074,
2169 and does not prohibit an insurer from exercising its right to
2170 repair damaged property in compliance with the terms of an
2171 applicable policy or ss. 627.7011(6)(e) and 627.702(7). The
2172 Homeowner Claims Bill of Rights must state:

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HOMEOWNER CLAIMS

BILL OF RIGHTS

This Bill of Rights is specific to the claims process
and does not represent all of your rights under
Florida law regarding your policy. There are also
exceptions to the stated timelines when conditions are
beyond your insurance company's control. This document
does not create a civil cause of action by an
individual policyholder, or a class of policyholders,
against an insurer or insurers and does not prohibit
an insurer from exercising its right to repair damaged
property in compliance with the terms of an applicable



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policy.

YOU HAVE THE RIGHT TO:

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

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

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

4. Within 45 ~~90~~ days, subject to any dual interest noted in the policy, receive full settlement payment for your claim or payment of the undisputed portion of your claim, or your insurance company's denial of your claim.

~~5.4.~~ Receive payment of interest, as provided in s. 627.70131, Florida Statutes, from your insurance company, which begins accruing from the date your claim is filed if your insurance company does not pay full settlement of your initial, reopened, or supplemental claim or the undisputed portion of your claim or does not deny your claim within 45 ~~90~~ days