

26 a certain amount or fee if the agents are unable to
27 accept appointment due to failure to be licensed as
28 surplus lines agents; providing nonapplicability of
29 such payment requirement; revising eligibility for
30 commercial lines residential risks coverage by the
31 corporation; providing that commercial lines
32 residential risks are not eligible for coverage by the
33 corporation under certain circumstances; providing
34 that comparisons of comparable coverages under certain
35 personal lines residential risks and commercial lines
36 residential risks do not apply to policies that do not
37 cover primary residences; revising the corporation's
38 plan of operation; revising the required statements
39 from applicants for coverage; revising the duties of
40 the executive director of the corporation; authorizing
41 the executive director to assign and appoint
42 designees; removing a nonapplicability provision
43 relating to bond requirements; authorizing assessed
44 insureds of certain insurers to be relieved from
45 assessments under certain circumstances; removing
46 provisions relating to certain insurer assessment
47 deferments; removing provisions relating to the
48 intangibles of and coverage by the Florida Windstorm
49 Underwriting Association and the corporation coastal
50 account; authorizing the corporation and certain

51 persons to make specified information obtained from
 52 underwriting files and confidential claims files
 53 available to licensed surplus lines agents;
 54 prohibiting such agents from using such information
 55 for specified purposes; revising the flood coverage
 56 requirements for personal lines residential
 57 policyholders; providing nonapplicability of
 58 provisions relating to take-out offers that are part
 59 of applications to participate in depopulation;
 60 authorizing the corporation to share its claims data
 61 with a specified entity; amending s. 627.3511, F.S.;
 62 conforming provisions to changes made by the act;
 63 conforming cross-references; amending s. 627.3518,
 64 F.S.; providing nonapplicability of provisions
 65 relating to noneligibility for coverage by the
 66 corporation; providing an effective date.

67
 68 Be It Enacted by the Legislature of the State of Florida:

69
 70 Section 1. Subsection (7) of section 627.351, Florida
 71 Statutes, is renumbered as subsection (8), paragraph (b) of
 72 subsection (2) and subsection (6) are amended, and a new
 73 subsection (7) is added to that section, to read:

74 627.351 Insurance risk apportionment plans.—
 75 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

76 (b) The department shall require all insurers holding a
77 certificate of authority to transact property insurance on a
78 direct basis in this state, other than joint underwriting
79 associations and other entities formed pursuant to this section,
80 to provide windstorm coverage to applicants from areas
81 determined to be eligible pursuant to paragraph (c) who in good
82 faith are entitled to, but are unable to procure, such coverage
83 through ordinary means; or it shall adopt a reasonable plan or
84 plans for the equitable apportionment or sharing among such
85 insurers of windstorm coverage, which may include formation of
86 an association for this purpose. As used in this subsection, the
87 term "property insurance" means insurance on real or personal
88 property, as defined in s. 624.604, including insurance for
89 fire, industrial fire, allied lines, farmowners multiperil,
90 homeowners multiperil, commercial multiperil, and mobile homes,
91 and including liability coverages on all such insurance, but
92 excluding inland marine as defined in s. 624.607(3) and
93 excluding vehicle insurance as defined in s. 624.605(1)(a) other
94 than insurance on mobile homes used as permanent dwellings. The
95 department shall adopt rules that provide a formula for the
96 recovery and repayment of any deferred assessments.

97 1. For the purpose of this section, properties eligible
98 for such windstorm coverage are defined as dwellings, buildings,
99 and other structures, including mobile homes which are used as
100 dwellings and which are tied down in compliance with mobile home

101 tie-down requirements prescribed by the Department of Highway
102 Safety and Motor Vehicles pursuant to s. 320.8325, and the
103 contents of all such properties. An applicant or policyholder is
104 eligible for coverage only if an offer of coverage cannot be
105 obtained by or for the applicant or policyholder from an
106 admitted insurer at approved rates.

107 2.a.(I) All insurers required to be members of such
108 association shall participate in its writings, expenses, and
109 losses. Surplus of the association shall be retained for the
110 payment of claims and shall not be distributed to the member
111 insurers. Such participation by member insurers shall be in the
112 proportion that the net direct premiums of each member insurer
113 written for property insurance in this state during the
114 preceding calendar year bear to the aggregate net direct
115 premiums for property insurance of all member insurers, as
116 reduced by any credits for voluntary writings, in this state
117 during the preceding calendar year. For the purposes of this
118 subsection, the term "net direct premiums" means direct written
119 premiums for property insurance, reduced by premium for
120 liability coverage and for the following if included in allied
121 lines: rain and hail on growing crops; livestock; association
122 direct premiums booked; National Flood Insurance Program direct
123 premiums; and similar deductions specifically authorized by the
124 plan of operation and approved by the department. A member's
125 participation shall begin on the first day of the calendar year

126 following the year in which it is issued a certificate of
127 authority to transact property insurance in the state and shall
128 terminate 1 year after the end of the calendar year during which
129 it no longer holds a certificate of authority to transact
130 property insurance in the state. The commissioner, after review
131 of annual statements, other reports, and any other statistics
132 that the commissioner deems necessary, shall certify to the
133 association the aggregate direct premiums written for property
134 insurance in this state by all member insurers.

135 (II) Effective July 1, 2002, the association shall operate
136 subject to the supervision and approval of a board of governors
137 who are the same individuals that have been appointed by the
138 Treasurer to serve on the board of governors of the Citizens
139 Property Insurance Corporation.

140 (III) The plan of operation shall provide a formula
141 whereby a company voluntarily providing windstorm coverage in
142 affected areas will be relieved wholly or partially from
143 apportionment of a regular assessment pursuant to sub-sub-
144 subparagraph d.(I) or sub-sub-subparagraph d.(II).

145 (IV) A company which is a member of a group of companies
146 under common management may elect to have its credits applied on
147 a group basis, and any company or group may elect to have its
148 credits applied to any other company or group.

149 (V) There shall be no credits or relief from apportionment
150 to a company for emergency assessments collected from its

151 policyholders under sub-sub-subparagraph d.(III).

152 (VI) The plan of operation may also provide for the award
 153 of credits, for a period not to exceed 3 years, from a regular
 154 assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-
 155 subparagraph d.(II) as an incentive for taking policies out of
 156 the Residential Property and Casualty Joint Underwriting
 157 Association. In order to qualify for the exemption under this
 158 sub-sub-subparagraph, the take-out plan must provide that at
 159 least 40 percent of the policies removed from the Residential
 160 Property and Casualty Joint Underwriting Association cover risks
 161 located in Miami-Dade, Broward, and Palm Beach Counties or at
 162 least 30 percent of the policies so removed cover risks located
 163 in Miami-Dade, Broward, and Palm Beach Counties and an
 164 additional 50 percent of the policies so removed cover risks
 165 located in other coastal counties, and must also provide that no
 166 more than 15 percent of the policies so removed may exclude
 167 windstorm coverage. With the approval of the department, the
 168 association may waive these geographic criteria for a take-out
 169 plan that removes at least the lesser of 100,000 Residential
 170 Property and Casualty Joint Underwriting Association policies or
 171 15 percent of the total number of Residential Property and
 172 Casualty Joint Underwriting Association policies, provided the
 173 governing board of the Residential Property and Casualty Joint
 174 Underwriting Association certifies that the take-out plan will
 175 materially reduce the Residential Property and Casualty Joint

176 Underwriting Association's 100-year probable maximum loss from
177 hurricanes. With the approval of the department, the board may
178 extend such credits for an additional year if the insurer
179 guarantees an additional year of renewability for all policies
180 removed from the Residential Property and Casualty Joint
181 Underwriting Association, or for 2 additional years if the
182 insurer guarantees 2 additional years of renewability for all
183 policies removed from the Residential Property and Casualty
184 Joint Underwriting Association.

185 b. Assessments to pay deficits in the association under
186 this subparagraph shall be included as an appropriate factor in
187 the making of rates as provided in s. 627.3512.

188 c. The Legislature finds that the potential for unlimited
189 deficit assessments under this subparagraph may induce insurers
190 to attempt to reduce their writings in the voluntary market, and
191 that such actions would worsen the availability problems that
192 the association was created to remedy. It is the intent of the
193 Legislature that insurers remain fully responsible for paying
194 regular assessments and collecting emergency assessments for any
195 deficits of the association; however, it is also the intent of
196 the Legislature to provide a means by which assessment
197 liabilities may be amortized over a period of years.

198 d.(I) When the deficit incurred in a particular calendar
199 year is 10 percent or less of the aggregate statewide direct
200 written premium for property insurance for the prior calendar

201 year for all member insurers, the association shall levy an
 202 assessment on member insurers in an amount equal to the deficit.

203 (II) When the deficit incurred in a particular calendar
 204 year exceeds 10 percent of the aggregate statewide direct
 205 written premium for property insurance for the prior calendar
 206 year for all member insurers, the association shall levy an
 207 assessment on member insurers in an amount equal to the greater
 208 of 10 percent of the deficit or 10 percent of the aggregate
 209 statewide direct written premium for property insurance for the
 210 prior calendar year for member insurers. Any remaining deficit
 211 shall be recovered through emergency assessments under sub-sub-
 212 subparagraph (III).

213 (III) Upon a determination by the board of directors that
 214 a deficit exceeds the amount that will be recovered through
 215 regular assessments on member insurers, pursuant to sub-sub-
 216 subparagraph (I) or sub-sub-subparagraph (II), the board shall
 217 levy, after verification by the department, emergency
 218 assessments to be collected by member insurers and by
 219 underwriting associations created pursuant to this section which
 220 write property insurance, upon issuance or renewal of property
 221 insurance policies other than National Flood Insurance policies
 222 in the year or years following levy of the regular assessments.
 223 The amount of the emergency assessment collected in a particular
 224 year shall be a uniform percentage of that year's direct written
 225 premium for property insurance for all member insurers and

226 | underwriting associations, excluding National Flood Insurance
227 | policy premiums, as annually determined by the board and
228 | verified by the department. The department shall verify the
229 | arithmetic calculations involved in the board's determination
230 | within 30 days after receipt of the information on which the
231 | determination was based. Notwithstanding any other provision of
232 | law, each member insurer and each underwriting association
233 | created pursuant to this section shall collect emergency
234 | assessments from its policyholders without such obligation being
235 | affected by any credit, limitation, exemption, or deferment. The
236 | emergency assessments so collected shall be transferred directly
237 | to the association on a periodic basis as determined by the
238 | association. The aggregate amount of emergency assessments
239 | levied under this sub-sub-subparagraph in any calendar year may
240 | not exceed the greater of 10 percent of the amount needed to
241 | cover the original deficit, plus interest, fees, commissions,
242 | required reserves, and other costs associated with financing of
243 | the original deficit, or 10 percent of the aggregate statewide
244 | direct written premium for property insurance written by member
245 | insurers and underwriting associations for the prior year, plus
246 | interest, fees, commissions, required reserves, and other costs
247 | associated with financing the original deficit. The board may
248 | pledge the proceeds of the emergency assessments under this sub-
249 | sub-subparagraph as the source of revenue for bonds, to retire
250 | any other debt incurred as a result of the deficit or events

251 giving rise to the deficit, or in any other way that the board
 252 determines will efficiently recover the deficit. The emergency
 253 assessments under this sub-sub-subparagraph shall continue as
 254 long as any bonds issued or other indebtedness incurred with
 255 respect to a deficit for which the assessment was imposed remain
 256 outstanding, unless adequate provision has been made for the
 257 payment of such bonds or other indebtedness pursuant to the
 258 document governing such bonds or other indebtedness. Emergency
 259 assessments collected under this sub-sub-subparagraph are not
 260 part of an insurer's rates, are not premium, and are not subject
 261 to premium tax, fees, or commissions; however, failure to pay
 262 the emergency assessment shall be treated as failure to pay
 263 premium.

264 (IV) Each member insurer's share of the total regular
 265 assessments under sub-sub-subparagraph (I) or sub-sub-
 266 subparagraph (II) shall be in the proportion that the insurer's
 267 net direct premium for property insurance in this state, for the
 268 year preceding the assessment bears to the aggregate statewide
 269 net direct premium for property insurance of all member
 270 insurers, as reduced by any credits for voluntary writings for
 271 that year.

272 (V) If regular deficit assessments are made under sub-sub-
 273 subparagraph (I) or sub-sub-subparagraph (II), ~~or by the~~
 274 ~~Residential Property and Casualty Joint Underwriting Association~~
 275 ~~under sub-subparagraph (6)(b)3.a.,~~ the association shall levy

276 upon the association's policyholders, as part of its next rate
277 filing, or by a separate rate filing solely for this purpose, a
278 market equalization surcharge in a percentage equal to the total
279 amount of such regular assessments divided by the aggregate
280 statewide direct written premium for property insurance for
281 member insurers for the prior calendar year. Market equalization
282 surcharges under this sub-sub-subparagraph are not considered
283 premium and are not subject to commissions, fees, or premium
284 taxes; however, failure to pay a market equalization surcharge
285 shall be treated as failure to pay premium.

286 e. The governing body of any unit of local government, any
287 residents of which are insured under the plan, may issue bonds
288 as defined in s. 125.013 or s. 166.101 to fund an assistance
289 program, in conjunction with the association, for the purpose of
290 defraying deficits of the association. In order to avoid
291 needless and indiscriminate proliferation, duplication, and
292 fragmentation of such assistance programs, any unit of local
293 government, any residents of which are insured by the
294 association, may provide for the payment of losses, regardless
295 of whether or not the losses occurred within or outside of the
296 territorial jurisdiction of the local government. Revenue bonds
297 may not be issued until validated pursuant to chapter 75, unless
298 a state of emergency is declared by executive order or
299 proclamation of the Governor pursuant to s. 252.36 making such
300 findings as are necessary to determine that it is in the best

301 interests of, and necessary for, the protection of the public
302 health, safety, and general welfare of residents of this state
303 and the protection and preservation of the economic stability of
304 insurers operating in this state, and declaring it an essential
305 public purpose to permit certain municipalities or counties to
306 issue bonds as will provide relief to claimants and
307 policyholders of the association and insurers responsible for
308 apportionment of plan losses. Any such unit of local government
309 may enter into such contracts with the association and with any
310 other entity created pursuant to this subsection as are
311 necessary to carry out this paragraph. Any bonds issued under
312 this sub-subparagraph shall be payable from and secured by
313 moneys received by the association from assessments under this
314 subparagraph, and assigned and pledged to or on behalf of the
315 unit of local government for the benefit of the holders of such
316 bonds. The funds, credit, property, and taxing power of the
317 state or of the unit of local government shall not be pledged
318 for the payment of such bonds. If any of the bonds remain unsold
319 60 days after issuance, the department shall require all
320 insurers subject to assessment to purchase the bonds, which
321 shall be treated as admitted assets; each insurer shall be
322 required to purchase that percentage of the unsold portion of
323 the bond issue that equals the insurer's relative share of
324 assessment liability under this subsection. An insurer shall not
325 be required to purchase the bonds to the extent that the

326 department determines that the purchase would endanger or impair
327 the solvency of the insurer. The authority granted by this sub-
328 subparagraph is additional to any bonding authority granted by
329 subparagraph 6.

330 3. The plan shall also provide that any member with a
331 surplus as to policyholders of \$25 million or less writing 25
332 percent or more of its total countrywide property insurance
333 premiums in this state may petition the department, within the
334 first 90 days of each calendar year, to qualify as a limited
335 apportionment company. The apportionment of such a member
336 company in any calendar year for which it is qualified shall not
337 exceed its gross participation, which shall not be affected by
338 the formula for voluntary writings. In no event shall a limited
339 apportionment company be required to participate in any
340 apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I)
341 or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds
342 \$50 million after payment of available plan funds in any
343 calendar year. However, a limited apportionment company shall
344 collect from its policyholders any emergency assessment imposed
345 under sub-sub-subparagraph 2.d.(III). The plan shall provide
346 that, if the department determines that any regular assessment
347 will result in an impairment of the surplus of a limited
348 apportionment company, the department may direct that all or
349 part of such assessment be deferred. However, there shall be no
350 limitation or deferment of an emergency assessment to be

351 collected from policyholders under sub-sub-subparagraph
352 2.d.(III).

353 4. The plan shall provide for the deferment, in whole or
354 in part, of a regular assessment of a member insurer under sub-
355 sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but
356 not for an emergency assessment collected from policyholders
357 under sub-sub-subparagraph 2.d.(III), if, in the opinion of the
358 commissioner, payment of such regular assessment would endanger
359 or impair the solvency of the member insurer. In the event a
360 regular assessment against a member insurer is deferred in whole
361 or in part, the amount by which such assessment is deferred may
362 be assessed against the other member insurers in a manner
363 consistent with the basis for assessments set forth in sub-sub-
364 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

365 5.a. The plan of operation may include deductibles and
366 rules for classification of risks and rate modifications
367 consistent with the objective of providing and maintaining funds
368 sufficient to pay catastrophe losses.

369 b. It is the intent of the Legislature that the rates for
370 coverage provided by the association be actuarially sound and
371 not competitive with approved rates charged in the admitted
372 voluntary market such that the association functions as a
373 residual market mechanism to provide insurance only when the
374 insurance cannot be procured in the voluntary market. The plan
375 of operation shall provide a mechanism to assure that, beginning

376 no later than January 1, 1999, the rates charged by the
377 association for each line of business are reflective of approved
378 rates in the voluntary market for hurricane coverage for each
379 line of business in the various areas eligible for association
380 coverage.

381 c. The association shall provide for windstorm coverage on
382 residential properties in limits up to \$10 million for
383 commercial lines residential risks and up to \$1 million for
384 personal lines residential risks. If coverage with the
385 association is sought for a residential risk valued in excess of
386 these limits, coverage shall be available to the risk up to the
387 replacement cost or actual cash value of the property, at the
388 option of the insured, if coverage for the risk cannot be
389 located in the authorized market. The association must accept a
390 commercial lines residential risk with limits above \$10 million
391 or a personal lines residential risk with limits above \$1
392 million if coverage is not available in the authorized market.
393 The association may write coverage above the limits specified in
394 this subparagraph with or without facultative or other
395 reinsurance coverage, as the association determines appropriate.

396 d. The plan of operation must provide objective criteria
397 and procedures, approved by the department, to be uniformly
398 applied for all applicants in determining whether an individual
399 risk is so hazardous as to be uninsurable. In making this
400 determination and in establishing the criteria and procedures,

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401 the following shall be considered:

402 (I) Whether the likelihood of a loss for the individual
403 risk is substantially higher than for other risks of the same
404 class; and

405 (II) Whether the uncertainty associated with the
406 individual risk is such that an appropriate premium cannot be
407 determined.

408

409 The acceptance or rejection of a risk by the association
410 pursuant to such criteria and procedures must be construed as
411 the private placement of insurance, and the provisions of
412 chapter 120 do not apply.

413 e. If the risk accepts an offer of coverage through the
414 market assistance program or through a mechanism established by
415 the association, either before the policy is issued by the
416 association or during the first 30 days of coverage by the
417 association, and the producing agent who submitted the
418 application to the association is not currently appointed by the
419 insurer, the insurer shall:

420 (I) Pay to the producing agent of record of the policy,
421 for the first year, an amount that is the greater of the
422 insurer's usual and customary commission for the type of policy
423 written or a fee equal to the usual and customary commission of
424 the association; or

425 (II) Offer to allow the producing agent of record of the

426 policy to continue servicing the policy for a period of not less
427 than 1 year and offer to pay the agent the greater of the
428 insurer's or the association's usual and customary commission
429 for the type of policy written.

430

431 If the producing agent is unwilling or unable to accept
432 appointment, the new insurer shall pay the agent in accordance
433 with sub-sub-subparagraph (I). Subject to the provisions of s.
434 627.3517, the policies issued by the association must provide
435 that if the association obtains an offer from an authorized
436 insurer to cover the risk at its approved rates under either a
437 standard policy including wind coverage or, if consistent with
438 the insurer's underwriting rules as filed with the department, a
439 basic policy including wind coverage, the risk is no longer
440 eligible for coverage through the association. Upon termination
441 of eligibility, the association shall provide written notice to
442 the policyholder and agent of record stating that the
443 association policy must be canceled as of 60 days after the date
444 of the notice because of the offer of coverage from an
445 authorized insurer. Other provisions of the insurance code
446 relating to cancellation and notice of cancellation do not apply
447 to actions under this sub-subparagraph.

448 f. When the association enters into a contractual
449 agreement for a take-out plan, the producing agent of record of
450 the association policy is entitled to retain any unearned

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451 commission on the policy, and the insurer shall:

452 (I) Pay to the producing agent of record of the
453 association policy, for the first year, an amount that is the
454 greater of the insurer's usual and customary commission for the
455 type of policy written or a fee equal to the usual and customary
456 commission of the association; or

457 (II) Offer to allow the producing agent of record of the
458 association policy to continue servicing the policy for a period
459 of not less than 1 year and offer to pay the agent the greater
460 of the insurer's or the association's usual and customary
461 commission for the type of policy written.

462

463 If the producing agent is unwilling or unable to accept
464 appointment, the new insurer shall pay the agent in accordance
465 with sub-sub-subparagraph (I).

466 6.a. The plan of operation may authorize the formation of
467 a private nonprofit corporation, a private nonprofit
468 unincorporated association, a partnership, a trust, a limited
469 liability company, or a nonprofit mutual company which may be
470 empowered, among other things, to borrow money by issuing bonds
471 or by incurring other indebtedness and to accumulate reserves or
472 funds to be used for the payment of insured catastrophe losses.
473 The plan may authorize all actions necessary to facilitate the
474 issuance of bonds, including the pledging of assessments or
475 other revenues.

476 b. Any entity created under this subsection, or any entity
477 formed for the purposes of this subsection, may sue and be sued,
478 may borrow money; issue bonds, notes, or debt instruments;
479 pledge or sell assessments, market equalization surcharges and
480 other surcharges, rights, premiums, contractual rights,
481 projected recoveries from the Florida Hurricane Catastrophe
482 Fund, other reinsurance recoverables, and other assets as
483 security for such bonds, notes, or debt instruments; enter into
484 any contracts or agreements necessary or proper to accomplish
485 such borrowings; and take other actions necessary to carry out
486 the purposes of this subsection. The association may issue bonds
487 or incur other indebtedness, or have bonds issued on its behalf
488 by a unit of local government pursuant to subparagraph (6)(q)2.,
489 in the absence of a hurricane or other weather-related event,
490 upon a determination by the association subject to approval by
491 the department that such action would enable it to efficiently
492 meet the financial obligations of the association and that such
493 financings are reasonably necessary to effectuate the
494 requirements of this subsection. Any such entity may accumulate
495 reserves and retain surpluses as of the end of any association
496 year to provide for the payment of losses incurred by the
497 association during that year or any future year. The association
498 shall incorporate and continue the plan of operation and
499 articles of agreement in effect on the effective date of chapter
500 76-96, Laws of Florida, to the extent that it is not

501 inconsistent with chapter 76-96, and as subsequently modified
502 consistent with chapter 76-96. The board of directors and
503 officers currently serving shall continue to serve until their
504 successors are duly qualified as provided under the plan. The
505 assets and obligations of the plan in effect immediately prior
506 to the effective date of chapter 76-96 shall be construed to be
507 the assets and obligations of the successor plan created herein.

508 c. In recognition of s. 10, Art. I of the State
509 Constitution, prohibiting the impairment of obligations of
510 contracts, it is the intent of the Legislature that no action be
511 taken whose purpose is to impair any bond indenture or financing
512 agreement or any revenue source committed by contract to such
513 bond or other indebtedness issued or incurred by the association
514 or any other entity created under this subsection.

515 7. On such coverage, an agent's remuneration shall be that
516 amount of money payable to the agent by the terms of his or her
517 contract with the company with which the business is placed.
518 However, no commission will be paid on that portion of the
519 premium which is in excess of the standard premium of that
520 company.

521 8. Subject to approval by the department, the association
522 may establish different eligibility requirements and operational
523 procedures for any line or type of coverage for any specified
524 eligible area or portion of an eligible area if the board
525 determines that such changes to the eligibility requirements and

526 operational procedures are justified due to the voluntary market
527 being sufficiently stable and competitive in such area or for
528 such line or type of coverage and that consumers who, in good
529 faith, are unable to obtain insurance through the voluntary
530 market through ordinary methods would continue to have access to
531 coverage from the association. When coverage is sought in
532 connection with a real property transfer, such requirements and
533 procedures shall not provide for an effective date of coverage
534 later than the date of the closing of the transfer as
535 established by the transferor, the transferee, and, if
536 applicable, the lender.

537 9. Notwithstanding any other provision of law:

538 a. The pledge or sale of, the lien upon, and the security
539 interest in any rights, revenues, or other assets of the
540 association created or purported to be created pursuant to any
541 financing documents to secure any bonds or other indebtedness of
542 the association shall be and remain valid and enforceable,
543 notwithstanding the commencement of and during the continuation
544 of, and after, any rehabilitation, insolvency, liquidation,
545 bankruptcy, receivership, conservatorship, reorganization, or
546 similar proceeding against the association under the laws of
547 this state or any other applicable laws.

548 b. No such proceeding shall relieve the association of its
549 obligation, or otherwise affect its ability to perform its
550 obligation, to continue to collect, or levy and collect,

551 assessments, market equalization or other surcharges, projected
 552 recoveries from the Florida Hurricane Catastrophe Fund,
 553 reinsurance recoverables, or any other rights, revenues, or
 554 other assets of the association pledged.

555 c. Each such pledge or sale of, lien upon, and security
 556 interest in, including the priority of such pledge, lien, or
 557 security interest, any such assessments, emergency assessments,
 558 market equalization or renewal surcharges, projected recoveries
 559 from the Florida Hurricane Catastrophe Fund, reinsurance
 560 recoverables, or other rights, revenues, or other assets which
 561 are collected, or levied and collected, after the commencement
 562 of and during the pendency of or after any such proceeding shall
 563 continue unaffected by such proceeding.

564 d. As used in this subsection, the term "financing
 565 documents" means any agreement, instrument, or other document
 566 now existing or hereafter created evidencing any bonds or other
 567 indebtedness of the association or pursuant to which any such
 568 bonds or other indebtedness has been or may be issued and
 569 pursuant to which any rights, revenues, or other assets of the
 570 association are pledged or sold to secure the repayment of such
 571 bonds or indebtedness, together with the payment of interest on
 572 such bonds or such indebtedness, or the payment of any other
 573 obligation of the association related to such bonds or
 574 indebtedness.

575 e. Any such pledge or sale of assessments, revenues,

576 contract rights or other rights or assets of the association
577 shall constitute a lien and security interest, or sale, as the
578 case may be, that is immediately effective and attaches to such
579 assessments, revenues, contract, or other rights or assets,
580 whether or not imposed or collected at the time the pledge or
581 sale is made. Any such pledge or sale is effective, valid,
582 binding, and enforceable against the association or other entity
583 making such pledge or sale, and valid and binding against and
584 superior to any competing claims or obligations owed to any
585 other person or entity, including policyholders in this state,
586 asserting rights in any such assessments, revenues, contract, or
587 other rights or assets to the extent set forth in and in
588 accordance with the terms of the pledge or sale contained in the
589 applicable financing documents, whether or not any such person
590 or entity has notice of such pledge or sale and without the need
591 for any physical delivery, recordation, filing, or other action.

592 f. There shall be no liability on the part of, and no
593 cause of action of any nature shall arise against, any member
594 insurer or its agents or employees, agents or employees of the
595 association, members of the board of directors of the
596 association, or the department or its representatives, for any
597 action taken by them in the performance of their duties or
598 responsibilities under this subsection. Such immunity does not
599 apply to actions for breach of any contract or agreement
600 pertaining to insurance, or any willful tort.

601 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

605 1. The Legislature finds that private insurers are
 606 unwilling or unable to provide affordable property insurance
 607 coverage in this state to the extent sought and needed. The
 608 absence of affordable property insurance threatens the public
 609 health, safety, and welfare and likewise threatens the economic
 610 health of the state. The state therefore has a compelling public
 611 interest and a public purpose to assist in assuring that
 612 property in the state is insured and that it is insured at
 613 affordable rates so as to facilitate the remediation,
 614 reconstruction, and replacement of damaged or destroyed property
 615 in order to reduce or avoid the negative effects otherwise
 616 resulting to the public health, safety, and welfare, to the
 617 economy of the state, and to the revenues of the state and local
 618 governments which are needed to provide for the public welfare.
 619 It is necessary, therefore, to provide affordable property
 620 insurance to applicants who are in good faith entitled to
 621 procure insurance through the voluntary market but are unable to
 622 do so. The Legislature intends, therefore, that affordable
 623 property insurance be provided and that it continue to be
 624 provided, as long as necessary, through Citizens Property
 625 Insurance Corporation, a government entity that is an integral

626 part of the state, and that is not a private insurance company.
627 To that end, the corporation shall strive to increase the
628 availability of affordable property insurance in this state,
629 while achieving efficiencies and economies, and while providing
630 service to policyholders, applicants, and agents which is no
631 less than the quality generally provided in the voluntary
632 market, for the achievement of the foregoing public purposes.
633 Because it is essential for this government entity to have the
634 maximum financial resources to pay claims following a
635 catastrophic hurricane, it is the intent of the Legislature that
636 the corporation continue to be an integral part of the state and
637 that the income of the corporation be exempt from federal income
638 taxation and that interest on the debt obligations issued by the
639 corporation be exempt from federal income taxation.

640 2. The Residential Property and Casualty Joint
641 Underwriting Association originally created by this statute
642 shall be known as the Citizens Property Insurance Corporation.
643 The corporation shall provide insurance for residential and
644 commercial property, for applicants who are entitled, but, in
645 good faith, are unable to procure insurance through the
646 voluntary market. The corporation shall operate pursuant to a
647 plan of operation approved by order of the Financial Services
648 Commission. The plan is subject to continuous review by the
649 commission. The commission may, by order, withdraw approval of
650 all or part of a plan if the commission determines that

651 conditions have changed since approval was granted and that the
652 purposes of the plan require changes in the plan. For the
653 purposes of this subsection, residential coverage includes both
654 personal lines residential coverage, which consists of the type
655 of coverage provided by homeowner, mobile home owner, dwelling,
656 tenant, condominium unit owner, and similar policies; and
657 commercial lines residential coverage, which consists of the
658 type of coverage provided by condominium association, apartment
659 building, and similar policies.

660 3. With respect to coverage for personal lines residential
661 structures:

662 ~~a. Effective January 1, 2014, a structure that has a~~
663 ~~dwelling replacement cost of \$1 million or more, or a single~~
664 ~~condominium unit that has a combined dwelling and contents~~
665 ~~replacement cost of \$1 million or more, is not eligible for~~
666 ~~coverage by the corporation. Such dwellings insured by the~~
667 ~~corporation on December 31, 2013, may continue to be covered by~~
668 ~~the corporation until the end of the policy term. The office~~
669 ~~shall approve the method used by the corporation for valuing the~~
670 ~~dwelling replacement cost for the purposes of this subparagraph.~~
671 ~~If a policyholder is insured by the corporation before being~~
672 ~~determined to be ineligible pursuant to this subparagraph and~~
673 ~~such policyholder files a lawsuit challenging the determination,~~
674 ~~the policyholder may remain insured by the corporation until the~~
675 ~~conclusion of the litigation.~~

676 ~~b. Effective January 1, 2015, a structure that has a~~
677 ~~dwelling replacement cost of \$900,000 or more, or a single~~
678 ~~condominium unit that has a combined dwelling and contents~~
679 ~~replacement cost of \$900,000 or more, is not eligible for~~
680 ~~coverage by the corporation. Such dwellings insured by the~~
681 ~~corporation on December 31, 2014, may continue to be covered by~~
682 ~~the corporation only until the end of the policy term.~~

683 ~~c. Effective January 1, 2016, a structure that has a~~
684 ~~dwelling replacement cost of \$800,000 or more, or a single~~
685 ~~condominium unit that has a combined dwelling and contents~~
686 ~~replacement cost of \$800,000 or more, is not eligible for~~
687 ~~coverage by the corporation. Such dwellings insured by the~~
688 ~~corporation on December 31, 2015, may continue to be covered by~~
689 ~~the corporation until the end of the policy term.~~

690 ~~a.d.~~ Effective January 1, 2017, a structure that has a
691 dwelling replacement cost of \$700,000 or more, or a single
692 condominium unit that has a combined dwelling and contents
693 replacement cost of \$700,000 or more, is not eligible for
694 coverage by the corporation. ~~Such dwellings insured by the~~
695 ~~corporation on December 31, 2016, may continue to be covered by~~
696 ~~the corporation until the end of the policy term.~~

697 b. The requirements of sub-subparagraph a. ~~sub-~~
698 ~~subparagraphs b.-d.~~ do not apply in counties where the office
699 determines there is not a reasonable degree of competition. In
700 such counties a personal lines residential structure that has a

701 dwelling replacement cost of less than \$1 million, or a single
702 condominium unit that has a combined dwelling and contents
703 replacement cost of less than \$1 million, is eligible for
704 coverage by the corporation.

705 4. It is the intent of the Legislature that policyholders,
706 applicants, and agents of the corporation receive service and
707 treatment of the highest possible level but never less than that
708 generally provided in the voluntary market. It is also intended
709 that the corporation be held to service standards no less than
710 those applied to insurers in the voluntary market by the office
711 with respect to responsiveness, timeliness, customer courtesy,
712 and overall dealings with policyholders, applicants, or agents
713 of the corporation.

714 5.a. Effective January 1, 2009, a personal lines
715 residential structure that is located in the "wind-borne debris
716 region," as defined in s. 1609.2, International Building Code
717 (2006), and that has an insured value on the structure of
718 \$750,000 or more is not eligible for coverage by the corporation
719 unless the structure has opening protections as required under
720 the Florida Building Code for a newly constructed residential
721 structure in that area. A residential structure is deemed to
722 comply with this sub-subparagraph if it has shutters or opening
723 protections on all openings and if such opening protections
724 complied with the Florida Building Code at the time they were
725 installed.

726 b. Any major structure, as defined in s. 161.54(6)(a),
727 that is newly constructed, or rebuilt, repaired, restored, or
728 remodeled to increase the total square footage of finished area
729 by more than 25 percent, pursuant to a permit applied for after
730 July 1, 2015, is not eligible for coverage by the corporation if
731 the structure is seaward of the coastal construction control
732 line established pursuant to s. 161.053 or is within the Coastal
733 Barrier Resources System as designated by 16 U.S.C. ss. 3501-
734 3510.

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

740 (b)1. All insurers authorized to write one or more subject
741 lines of business in this state are subject to assessment by the
742 corporation and, for the purposes of this subsection, are
743 referred to collectively as "assessable insurers." Insurers
744 writing one or more subject lines of business in this state
745 pursuant to part VIII of chapter 626 are not assessable
746 insurers; however, insureds who procure one or more subject
747 lines of business in this state pursuant to part VIII of chapter
748 626 are subject to assessment by the corporation and are
749 referred to collectively as "assessable insureds." An insurer's
750 assessment liability begins on the first day of the calendar

751 year following the year in which the insurer was issued a
 752 certificate of authority to transact insurance for subject lines
 753 of business in this state and terminates 1 year after the end of
 754 the first calendar year during which the insurer no longer holds
 755 a certificate of authority to transact insurance for subject
 756 lines of business in this state.

757 ~~2.a.~~ All revenues, assets, liabilities, losses, and
 758 expenses of the corporation shall be maintained in the Citizens
 759 account. ~~The Citizens account may provide divided into three~~
 760 ~~separate accounts as follows:~~

761 ~~a.(I)~~ ~~A personal lines account for~~ Personal residential
 762 policies that provide ~~issued by the corporation which provides~~
 763 comprehensive, multiperil coverage on risks that are not located
 764 in areas eligible for coverage by the Florida Windstorm
 765 Underwriting Association as those areas were defined on January
 766 1, 2002, and for policies that do not provide coverage for the
 767 peril of wind on risks that are located in such areas;

768 ~~b.(II)~~ ~~A commercial lines account for~~ Commercial
 769 residential and commercial nonresidential policies that provide
 770 ~~issued by the corporation which provides~~ coverage for basic
 771 property perils on risks that are not located in areas eligible
 772 for coverage by the Florida Windstorm Underwriting Association
 773 as those areas were defined on January 1, 2002, and for policies
 774 that do not provide coverage for the peril of wind on risks that
 775 are located in such areas; and

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776 c.(III) ~~A Coastal account for~~ Personal residential
777 policies and commercial residential and commercial
778 nonresidential property policies that provide ~~issued by the~~
779 ~~corporation which provides~~ coverage for the peril of wind on
780 risks that are located in areas eligible for coverage by the
781 Florida Windstorm Underwriting Association, as those areas were
782 defined on January 1, 2002. The corporation may offer policies
783 that provide multiperil coverage and shall offer policies that
784 provide coverage only for the peril of wind for risks located in
785 areas eligible for coverage by the Florida Windstorm
786 Underwriting Association, as those areas were defined on January
787 1, 2002 in the coastal account. ~~Effective July 1, 2014,~~ The
788 corporation may not offer ~~shall cease offering~~ new commercial
789 residential policies providing multiperil coverage but ~~and~~ shall
790 ~~instead~~ continue to offer commercial residential wind-only
791 policies, and may offer commercial residential policies
792 excluding wind. However, ~~the corporation may, however,~~ continue
793 to renew a commercial residential multiperil policy on a
794 building that was ~~is~~ insured by the corporation on June 30,
795 2014, under a multiperil policy. In issuing multiperil coverage
796 under this sub-subparagraph, the corporation may use its
797 approved policy forms and rates for risks located in areas not
798 eligible for coverage by the Florida Windstorm Underwriting
799 Association, as those areas were defined on January 1, 2002, and
800 for policies that do not provide coverage for the peril of wind

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801 on risks that are located in such areas ~~the personal lines~~
802 ~~account~~. An applicant or insured who is eligible to purchase a
803 multiperil policy from the corporation may purchase a multiperil
804 policy from an authorized insurer without prejudice to the
805 applicant's or insured's eligibility to prospectively purchase a
806 policy that provides coverage only for the peril of wind from
807 the corporation. An applicant or insured who is eligible for a
808 corporation policy that provides coverage only for the peril of
809 wind may elect to purchase or retain such policy and also
810 purchase or retain coverage excluding wind from an authorized
811 insurer without prejudice to the applicant's or insured's
812 eligibility to prospectively purchase a policy that provides
813 multiperil coverage from the corporation. The following
814 policies, which provide coverage only for the peril of wind,
815 must also include quota share primary insurance under
816 subparagraph (c)2.:

817 (I) Personal residential policies and commercial
818 residential and commercial nonresidential property policies that
819 provide coverage for the peril of wind on risks that are located
820 in areas eligible for coverage by the Florida Windstorm
821 Underwriting Association, as those areas were defined on January
822 1, 2002;

823 (II) Policies that provide multiperil coverage, if offered
824 by the corporation, and policies that provide coverage only for
825 the peril of wind for risks located in areas eligible for

826 coverage by the Florida Windstorm Underwriting Association, as
 827 those areas were defined on January 1, 2002;

828 (III) Commercial residential wind-only policies;

829 (IV) Commercial residential policies excluding wind, if
 830 offered by the corporation; and

831 (V) Commercial residential multiperil policies on a
 832 building that was insured by the corporation on June 30, 2014 ~~It~~
 833 ~~is the goal of the Legislature that there be an overall average~~
 834 ~~savings of 10 percent or more for a policyholder who currently~~
 835 ~~has a wind-only policy with the corporation, and an ex-wind~~
 836 ~~policy with a voluntary insurer or the corporation, and who~~
 837 ~~obtains a multiperil policy from the corporation. It is the~~
 838 ~~intent of the Legislature that the offer of multiperil coverage~~
 839 ~~in the coastal account be made and implemented in a manner that~~
 840 ~~does not adversely affect the tax-exempt status of the~~
 841 ~~corporation or creditworthiness of or security for currently~~
 842 ~~outstanding financing obligations or credit facilities of the~~
 843 ~~coastal account, the personal lines account, or the commercial~~
 844 ~~lines account. The coastal account must also include quota share~~
 845 ~~primary insurance under subparagraph (c)2.~~

846
 847 The area eligible for coverage with the corporation under this
 848 sub-subparagraph ~~under the coastal account also~~ includes the
 849 area within Port Canaveral, which is bordered on the south by
 850 the City of Cape Canaveral, bordered on the west by the Banana

851 River, and bordered on the north by Federal Government property.

852 3. With respect to a deficit in the Citizens account:

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

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

860 (II) The surcharge is payable upon cancellation or
861 termination of the policy, upon renewal of the policy, or upon
862 issuance of a new policy by the corporation within the first 12
863 months after the date of the levy or the period of time
864 necessary to fully collect the surcharge amount.

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

868 ~~b. The three separate accounts must be maintained as long~~
869 ~~as financing obligations entered into by the Florida Windstorm~~
870 ~~Underwriting Association or Residential Property and Casualty~~
871 ~~Joint Underwriting Association are outstanding, in accordance~~
872 ~~with the terms of the corresponding financing documents. If no~~
873 ~~such financing obligations remain outstanding or if the~~
874 ~~financing documents allow for combining of accounts, the~~
875 ~~corporation may consolidate the three separate accounts into a~~

876 ~~new account, to be known as the Citizens account, for all~~
877 ~~revenues, assets, liabilities, losses, and expenses of the~~
878 ~~corporation. The Citizens account, if established by the~~
879 ~~corporation, is authorized to provide coverage to the same~~
880 ~~extent as provided under each of the three separate accounts.~~
881 ~~The authority to provide coverage under the Citizens account is~~
882 ~~set forth in subparagraph 4. Consistent with this subparagraph~~
883 ~~and prudent investment policies that minimize the cost of~~
884 ~~carrying debt, the board shall exercise its best efforts to~~
885 ~~retire existing debt or obtain the approval of necessary parties~~
886 ~~to amend the terms of existing debt, so as to structure the most~~
887 ~~efficient plan for consolidating the three separate accounts~~
888 ~~into a single account. Once the accounts are combined into one~~
889 ~~account, this subparagraph and subparagraph 3. shall be replaced~~
890 ~~in their entirety by subparagraphs 4. and 5.~~

891 ~~e. Creditors of the Residential Property and Casualty~~
892 ~~Joint Underwriting Association and the accounts specified in~~
893 ~~sub-sub-subparagraphs a.(I) and (II) may have a claim against,~~
894 ~~and recourse to, those accounts and no claim against, or~~
895 ~~recourse to, the account referred to in sub-sub-subparagraph~~
896 ~~a.(III). Creditors of the Florida Windstorm Underwriting~~
897 ~~Association have a claim against, and recourse to, the account~~
898 ~~referred to in sub-sub-subparagraph a.(III) and no claim~~
899 ~~against, or recourse to, the accounts referred to in sub-sub-~~
900 ~~subparagraphs a.(I) and (II).~~

901 ~~d. Revenues, assets, liabilities, losses, and expenses not~~
 902 ~~attributable to particular accounts shall be prorated among the~~
 903 ~~accounts.~~

904 ~~e. The Legislature finds that the revenues of the~~
 905 ~~corporation are revenues that are necessary to meet the~~
 906 ~~requirements set forth in documents authorizing the issuance of~~
 907 ~~bonds under this subsection.~~

908 ~~f. The income of the corporation may not inure to the~~
 909 ~~benefit of any private person.~~

910 ~~3. With respect to a deficit in an account:~~

911 ~~a. After accounting for the Citizens policyholder~~
 912 ~~surcharge imposed under sub-subparagraph j., if the remaining~~
 913 ~~projected deficit incurred in the coastal account in a~~
 914 ~~particular calendar year:~~

915 ~~(I) Is not greater than 2 percent of the aggregate~~
 916 ~~statewide direct written premium for the subject lines of~~
 917 ~~business for the prior calendar year, the entire deficit shall~~
 918 ~~be recovered through regular assessments of assessable insurers~~
 919 ~~under paragraph (q) and assessable insureds.~~

920 ~~(II) Exceeds 2 percent of the aggregate statewide direct~~
 921 ~~written premium for the subject lines of business for the prior~~
 922 ~~calendar year, the corporation shall levy regular assessments on~~
 923 ~~assessable insurers under paragraph (q) and on assessable~~
 924 ~~insureds in an amount equal to the greater of 2 percent of the~~
 925 ~~projected deficit or 2 percent of the aggregate statewide direct~~

926 ~~written premium for the subject lines of business for the prior~~
927 ~~calendar year. Any remaining projected deficit shall be~~
928 ~~recovered through emergency assessments under sub-subparagraph~~
929 ~~e.~~

930 ~~b. Each assessable insurer's share of the amount being~~
931 ~~assessed under sub-subparagraph a. must be in the proportion~~
932 ~~that the assessable insurer's direct written premium for the~~
933 ~~subject lines of business for the year preceding the assessment~~
934 ~~bears to the aggregate statewide direct written premium for the~~
935 ~~subject lines of business for that year. The assessment~~
936 ~~percentage applicable to each assessable insured is the ratio of~~
937 ~~the amount being assessed under sub-subparagraph a. to the~~
938 ~~aggregate statewide direct written premium for the subject lines~~
939 ~~of business for the prior year. Assessments levied by the~~
940 ~~corporation on assessable insurers under sub-subparagraph a.~~
941 ~~must be paid as required by the corporation's plan of operation~~
942 ~~and paragraph (q). Assessments levied by the corporation on~~
943 ~~assessable insureds under sub-subparagraph a. shall be collected~~
944 ~~by the surplus lines agent at the time the surplus lines agent~~
945 ~~collects the surplus lines tax required by s. 626.932, and paid~~
946 ~~to the Florida Surplus Lines Service Office at the time the~~
947 ~~surplus lines agent pays the surplus lines tax to that office.~~
948 ~~Upon receipt of regular assessments from surplus lines agents,~~
949 ~~the Florida Surplus Lines Service Office shall transfer the~~
950 ~~assessments directly to the corporation as determined by the~~

951 ~~corporation.~~

952 ~~e. The corporation may not levy regular assessments under~~
953 ~~paragraph (q) pursuant to sub-subparagraph a. or sub-~~
954 ~~subparagraph b. if the three separate accounts in sub-sub-~~
955 ~~subparagraphs 2.a.(I)-(III) have been consolidated into the~~
956 ~~Citizens account pursuant to sub-subparagraph 2.b. However, the~~
957 ~~outstanding balance of any regular assessment levied by the~~
958 ~~corporation before establishment of the Citizens account remains~~
959 ~~payable to the corporation.~~

960 ~~b.d.~~ After accounting for the Citizens policyholder
961 surcharge imposed under sub-subparagraph a. j., the remaining
962 projected deficits in the Citizens ~~personal lines~~ account ~~and in~~
963 ~~the commercial lines account~~ in a particular calendar year shall
964 be recovered through emergency assessments under sub-
965 subparagraph c. e.

966 c.e. Upon a determination by the board of governors that a
967 projected deficit in the Citizens ~~an~~ account exceeds the amount
968 that is expected to be recovered through surcharges ~~regular~~
969 ~~assessments~~ under sub-subparagraph a., ~~plus the amount that is~~
970 ~~expected to be recovered through surcharges under sub-~~
971 ~~subparagraph j.~~, the board, after verification by the office,
972 shall levy emergency assessments for as many years as necessary
973 to cover the deficits, to be collected by assessable insurers
974 and the corporation and collected from assessable insureds upon
975 issuance or renewal of policies for subject lines of business,

976 | excluding National Flood Insurance Program policies. The amount
 977 | collected in a particular year must be a uniform percentage of
 978 | that year's direct written premium for subject lines of business
 979 | and the Citizens account ~~all accounts of the corporation,~~
 980 | ~~excluding~~ National Flood Insurance Program policy premiums, as
 981 | annually determined by the board and verified by the office. The
 982 | office shall verify the arithmetic calculations involved in the
 983 | board's determination within 30 days after receipt of the
 984 | information on which the determination was based. The office
 985 | shall notify assessable insurers and the Florida Surplus Lines
 986 | Service Office of the date on which assessable insurers shall
 987 | begin to collect and assessable insureds shall begin to pay such
 988 | assessment. The date must be at least 90 days after the date the
 989 | corporation levies emergency assessments pursuant to this sub-
 990 | subparagraph. Notwithstanding any other ~~provision of law,~~ the
 991 | corporation and each assessable insurer that writes subject
 992 | lines of business shall collect emergency assessments from its
 993 | policyholders without such obligation being affected by any
 994 | credit, limitation, exemption, or deferment. Emergency
 995 | assessments levied by the corporation on assessable insureds
 996 | shall be collected by the surplus lines agent at the time the
 997 | surplus lines agent collects the surplus lines tax required by
 998 | s. 626.932 and paid to the Florida Surplus Lines Service Office
 999 | at the time the surplus lines agent pays the surplus lines tax
 1000 | to that office. The emergency assessments collected shall be

1001 transferred directly to the corporation on a periodic basis as
 1002 determined by the corporation and held by the corporation solely
 1003 in the Citizens ~~applicable~~ account. The aggregate amount of
 1004 emergency assessments levied for the Citizens ~~an~~ account in any
 1005 calendar year may be less than but may not exceed the greater of
 1006 10 percent of the amount needed to cover the deficit, plus
 1007 interest, fees, commissions, required reserves, and other costs
 1008 associated with financing the original deficit, or 10 percent of
 1009 the aggregate statewide direct written premium for subject lines
 1010 of business and the Citizens account ~~all accounts~~ of the
 1011 corporation for the prior year, plus interest, fees,
 1012 commissions, required reserves, and other costs associated with
 1013 financing the deficit.

1014 ~~d.£.~~ The corporation may pledge the proceeds of
 1015 assessments, projected recoveries from the Florida Hurricane
 1016 Catastrophe Fund, other insurance and reinsurance recoverables,
 1017 policyholder surcharges and other surcharges, and other funds
 1018 available to the corporation as the source of revenue for and to
 1019 secure bonds issued under paragraph (q), bonds or other
 1020 indebtedness issued under subparagraph (c)3., or lines of credit
 1021 or other financing mechanisms issued or created under this
 1022 subsection, or to retire any other debt incurred as a result of
 1023 deficits or events giving rise to deficits, or in any other way
 1024 that the board determines will efficiently recover such
 1025 deficits. The purpose of the lines of credit or other financing

1026 mechanisms is to provide additional resources to assist the
 1027 corporation in covering claims and expenses attributable to a
 1028 catastrophe. As used in this subsection, the term "assessments"
 1029 includes emergency ~~regular~~ assessments under sub-subparagraph c.
 1030 ~~a. or subparagraph (q)1. and emergency assessments under sub-~~
 1031 ~~subparagraph e.~~ Emergency assessments collected under sub-
 1032 subparagraph c. ~~e.~~ are not part of an insurer's rates, are not
 1033 premium, and are not subject to premium tax, fees, or
 1034 commissions; however, failure to pay the emergency assessment
 1035 shall be treated as failure to pay premium. The emergency
 1036 assessments shall continue as long as any bonds issued or other
 1037 indebtedness incurred with respect to a deficit for which the
 1038 assessment was imposed remain outstanding, unless adequate
 1039 provision has been made for the payment of such bonds or other
 1040 indebtedness pursuant to the documents governing such bonds or
 1041 indebtedness.

1042 ~~e.g.~~ As used in this subsection and for purposes of any
 1043 deficit incurred on or after January 25, 2007, the term "subject
 1044 lines of business" means insurance written by assessable
 1045 insurers or procured by assessable insureds for all property and
 1046 casualty lines of business in this state, but not including
 1047 workers' compensation or medical malpractice. As used in this
 1048 sub-subparagraph, the term "property and casualty lines of
 1049 business" includes all lines of business identified on Form 2,
 1050 Exhibit of Premiums and Losses, in the annual statement required

1051 of authorized insurers under s. 624.424 and any rule adopted
 1052 under this section, except for those lines identified as
 1053 accident and health insurance and except for policies written
 1054 under the National Flood Insurance Program or the Federal Crop
 1055 Insurance Program. For purposes of this sub-subparagraph, the
 1056 term "workers' compensation" includes both workers' compensation
 1057 insurance and excess workers' compensation insurance.

1058 ~~f.h.~~ The Florida Surplus Lines Service Office shall
 1059 annually determine ~~annually~~ the aggregate statewide written
 1060 premium in subject lines of business procured by assessable
 1061 insureds and report that information to the corporation in a
 1062 form and at a time the corporation specifies to ensure that the
 1063 corporation can meet the requirements of this subsection and the
 1064 corporation's financing obligations.

1065 ~~g.i.~~ The Florida Surplus Lines Service Office shall verify
 1066 the proper application by surplus lines agents of assessment
 1067 percentages for ~~regular assessments and~~ emergency assessments
 1068 levied under this subparagraph on assessable insureds and assist
 1069 the corporation in ensuring the accurate, timely collection and
 1070 payment of assessments by surplus lines agents as required by
 1071 the corporation.

1072 ~~j.~~ Upon determination by the board of governors that an
 1073 account has a projected deficit, the board shall levy a Citizens
 1074 policyholder surcharge against all policyholders of the
 1075 corporation.

1076 ~~(I) The surcharge shall be levied as a uniform percentage~~
 1077 ~~of the premium for the policy of up to 15 percent of such~~
 1078 ~~premium, which funds shall be used to offset the deficit.~~

1079 ~~(II) The surcharge is payable upon cancellation or~~
 1080 ~~termination of the policy, upon renewal of the policy, or upon~~
 1081 ~~issuance of a new policy by the corporation within the first 12~~
 1082 ~~months after the date of the levy or the period of time~~
 1083 ~~necessary to fully collect the surcharge amount.~~

1084 ~~(III) The corporation may not levy any regular assessments~~
 1085 ~~under paragraph (q) pursuant to sub-subparagraph a. or sub-~~
 1086 ~~subparagraph b. with respect to a particular year's deficit~~
 1087 ~~until the corporation has first levied the full amount of the~~
 1088 ~~surcharge authorized by this sub-subparagraph.~~

1089 ~~(IV) The surcharge is not considered premium and is not~~
 1090 ~~subject to commissions, fees, or premium taxes. However, failure~~
 1091 ~~to pay the surcharge shall be treated as failure to pay premium.~~

1092 h.k. If the amount of any assessments or surcharges
 1093 collected from corporation policyholders, assessable insurers or
 1094 their policyholders, or assessable insureds exceeds the amount
 1095 of the deficits, such excess amounts shall be remitted to and
 1096 retained by the corporation in a reserve to be used by the
 1097 corporation, as determined by the board of governors and
 1098 approved by the office, to pay claims or reduce any past,
 1099 present, or future plan-year deficits or to reduce outstanding
 1100 debt.

1101 4. ~~The Citizens account, if established by the corporation~~
 1102 ~~pursuant to sub-subparagraph 2.b., is authorized to provide:~~
 1103 a. ~~Personal residential policies that provide~~
 1104 ~~comprehensive, multiperil coverage on risks that are not located~~
 1105 ~~in areas eligible for coverage by the Florida Windstorm~~
 1106 ~~Underwriting Association, as those areas were defined on January~~
 1107 ~~1, 2002, and for policies that do not provide coverage for the~~
 1108 ~~peril of wind on risks that are located in such areas;~~
 1109 b. ~~Commercial residential and commercial nonresidential~~
 1110 ~~policies that provide coverage for basic property perils on~~
 1111 ~~risks that are not located in areas eligible for coverage by the~~
 1112 ~~Florida Windstorm Underwriting Association, as those areas were~~
 1113 ~~defined on January 1, 2002, and for policies that do not provide~~
 1114 ~~coverage for the peril of wind on risks that are located in such~~
 1115 ~~areas; and~~
 1116 c. ~~Personal residential policies and commercial~~
 1117 ~~residential and commercial nonresidential property policies that~~
 1118 ~~provide coverage for the peril of wind on risks that are located~~
 1119 ~~in areas eligible for coverage by the Florida Windstorm~~
 1120 ~~Underwriting Association, as those areas were defined on January~~
 1121 ~~1, 2002. The corporation may offer policies that provide~~
 1122 ~~multiperil coverage and shall offer policies that provide~~
 1123 ~~coverage only for the peril of wind for risks located in areas~~
 1124 ~~eligible for coverage by the Florida Windstorm Underwriting~~
 1125 ~~Association, as those areas were defined on January 1, 2002. The~~

1126 ~~corporation may not offer new commercial residential policies~~
 1127 ~~providing multiperil coverage, but shall continue to offer~~
 1128 ~~commercial residential wind-only policies, and may offer~~
 1129 ~~commercial residential policies excluding wind. However, the~~
 1130 ~~corporation may continue to renew a commercial residential~~
 1131 ~~multiperil policy on a building that was insured by the~~
 1132 ~~corporation on June 30, 2014, under a multiperil policy. In~~
 1133 ~~issuing multiperil coverage under this sub-subparagraph, the~~
 1134 ~~corporation may use its approved policy forms and rates for~~
 1135 ~~risks located in areas not eligible for coverage by the Florida~~
 1136 ~~Windstorm Underwriting Association as these areas were defined~~
 1137 ~~on January 1, 2002, and for policies that do not provide~~
 1138 ~~coverage for the peril of wind on risks that are located in such~~
 1139 ~~areas. An applicant or insured who is eligible to purchase a~~
 1140 ~~multiperil policy from the corporation may purchase a multiperil~~
 1141 ~~policy from an authorized insurer without prejudice to the~~
 1142 ~~applicant's or insured's eligibility to prospectively purchase a~~
 1143 ~~policy that provides coverage only for the peril of wind from~~
 1144 ~~the corporation. An applicant or insured who is eligible for a~~
 1145 ~~corporation policy that provides coverage only for the peril of~~
 1146 ~~wind may elect to purchase or retain such policy and also~~
 1147 ~~purchase or retain coverage excluding wind from an authorized~~
 1148 ~~insurer without prejudice to the applicant's or insured's~~
 1149 ~~eligibility to prospectively purchase a policy that provides~~
 1150 ~~multiperil coverage from the corporation. The following~~

1151 ~~policies, which provide coverage only for the peril of wind,~~
 1152 ~~must also include quota share primary insurance under~~
 1153 ~~subparagraph (c)2.: Personal residential policies and commercial~~
 1154 ~~residential and commercial nonresidential property policies that~~
 1155 ~~provide coverage for the peril of wind on risks that are located~~
 1156 ~~in areas eligible for coverage by the Florida Windstorm~~
 1157 ~~Underwriting Association, as those areas were defined on January~~
 1158 ~~1, 2002; policies that provide multiperil coverage, if offered~~
 1159 ~~by the corporation, and policies that provide coverage only for~~
 1160 ~~the peril of wind for risks located in areas eligible for~~
 1161 ~~coverage by the Florida Windstorm Underwriting Association, as~~
 1162 ~~those areas were defined on January 1, 2002; commercial~~
 1163 ~~residential wind-only policies; commercial residential policies~~
 1164 ~~excluding wind, if offered by the corporation; and commercial~~
 1165 ~~residential multiperil policies on a building that was insured~~
 1166 ~~by the corporation on June 30, 2014. The area eligible for~~
 1167 ~~coverage with the corporation under this sub-subparagraph~~
 1168 ~~includes the area within Port Canaveral, which is bordered on~~
 1169 ~~the south by the City of Cape Canaveral, bordered on the west by~~
 1170 ~~the Banana River, and bordered on the north by Federal~~
 1171 ~~Government property.~~

1172 ~~5. With respect to a deficit in the Citizens account:~~
 1173 ~~a. Upon a determination by the board of governors that the~~
 1174 ~~Citizens account has a projected deficit, the board shall levy a~~
 1175 ~~Citizens policyholder surcharge against all policyholders of the~~

1176 corporation.

1177 ~~(I) The surcharge shall be levied as a uniform percentage~~
1178 ~~of the premium for the policy of up to 15 percent of such~~
1179 ~~premium, which funds shall be used to offset the deficit.~~

1180 ~~(II) The surcharge is payable upon cancellation or~~
1181 ~~termination of the policy, upon renewal of the policy, or upon~~
1182 ~~issuance of a new policy by the corporation within the first 12~~
1183 ~~months after the date of the levy or the period of time~~
1184 ~~necessary to fully collect the surcharge amount.~~

1185 ~~(III) The surcharge is not considered premium and is not~~
1186 ~~subject to commissions, fees, or premium taxes. However, failure~~
1187 ~~to pay the surcharge shall be treated as failure to pay premium.~~

1188 ~~b. After accounting for the Citizens policyholder~~
1189 ~~surcharge imposed under sub-subparagraph a., the remaining~~
1190 ~~projected deficit incurred in the Citizens account in a~~
1191 ~~particular calendar year shall be recovered through emergency~~
1192 ~~assessments under sub-subparagraph c.~~

1193 ~~e. Upon a determination by the board of governors that a~~
1194 ~~projected deficit in the Citizens account exceeds the amount~~
1195 ~~that is expected to be recovered through surcharges under sub-~~
1196 ~~subparagraph a., the board, after verification by the office,~~
1197 ~~shall levy emergency assessments for as many years as necessary~~
1198 ~~to cover the deficits, to be collected by assessable insurers~~
1199 ~~and the corporation and collected from assessable insureds upon~~
1200 ~~issuance or renewal of policies for subject lines of business,~~

1201 ~~excluding National Flood Insurance Program policies. The amount~~
 1202 ~~collected in a particular year must be a uniform percentage of~~
 1203 ~~that year's direct written premium for subject lines of business~~
 1204 ~~and the Citizens account, National Flood Insurance Program~~
 1205 ~~policy premiums, as annually determined by the board and~~
 1206 ~~verified by the office. The office shall verify the arithmetic~~
 1207 ~~calculations involved in the board's determination within 30~~
 1208 ~~days after receipt of the information on which the determination~~
 1209 ~~was based. The office shall notify assessable insurers and the~~
 1210 ~~Florida Surplus Lines Service Office of the date on which~~
 1211 ~~assessable insurers shall begin to collect and assessable~~
 1212 ~~insureds shall begin to pay such assessment. The date must be at~~
 1213 ~~least 90 days after the date the corporation levies emergency~~
 1214 ~~assessments pursuant to this sub-subparagraph. Notwithstanding~~
 1215 ~~any other law, the corporation and each assessable insurer that~~
 1216 ~~writes subject lines of business shall collect emergency~~
 1217 ~~assessments from its policyholders without such obligation being~~
 1218 ~~affected by any credit, limitation, exemption, or deferment.~~
 1219 ~~Emergency assessments levied by the corporation on assessable~~
 1220 ~~insureds shall be collected by the surplus lines agent at the~~
 1221 ~~time the surplus lines agent collects the surplus lines tax~~
 1222 ~~required by s. 626.932 and paid to the Florida Surplus Lines~~
 1223 ~~Service Office at the time the surplus lines agent pays the~~
 1224 ~~surplus lines tax to that office. The emergency assessments~~
 1225 ~~collected shall be transferred directly to the corporation on a~~

1226 ~~periodic basis as determined by the corporation and held by the~~
 1227 ~~corporation solely in the Citizens account. The aggregate amount~~
 1228 ~~of emergency assessments levied for the Citizens account in any~~
 1229 ~~calendar year may be less than, but may not exceed the greater~~
 1230 ~~of, 10 percent of the amount needed to cover the deficit, plus~~
 1231 ~~interest, fees, commissions, required reserves, and other costs~~
 1232 ~~associated with financing the original deficit or 10 percent of~~
 1233 ~~the aggregate statewide direct written premium for subject lines~~
 1234 ~~of business and the Citizens accounts for the prior year, plus~~
 1235 ~~interest, fees, commissions, required reserves, and other costs~~
 1236 ~~associated with financing the deficit.~~

1237 ~~d. The corporation may pledge the proceeds of assessments,~~
 1238 ~~projected recoveries from the Florida Hurricane Catastrophe~~
 1239 ~~Fund, other insurance and reinsurance recoverables, policyholder~~
 1240 ~~surcharges and other surcharges, and other funds available to~~
 1241 ~~the corporation as the source of revenue for and to secure bonds~~
 1242 ~~issued under paragraph (q), bonds or other indebtedness issued~~
 1243 ~~under subparagraph (c)3., or lines of credit or other financing~~
 1244 ~~mechanisms issued or created under this subsection; or to retire~~
 1245 ~~any other debt incurred as a result of deficits or events giving~~
 1246 ~~rise to deficits, or in any other way that the board determines~~
 1247 ~~will efficiently recover such deficits. The purpose of the lines~~
 1248 ~~of credit or other financing mechanisms is to provide additional~~
 1249 ~~resources to assist the corporation in covering claims and~~
 1250 ~~expenses attributable to a catastrophe. As used in this~~

1251 ~~subsection, the term "assessments" includes emergency~~
1252 ~~assessments under sub-subparagraph c. Emergency assessments~~
1253 ~~collected under sub-subparagraph c. are not part of an insurer's~~
1254 ~~rates, are not premium, and are not subject to premium tax,~~
1255 ~~fees, or commissions; however, failure to pay the emergency~~
1256 ~~assessment shall be treated as failure to pay premium. The~~
1257 ~~emergency assessments shall continue as long as any bonds issued~~
1258 ~~or other indebtedness incurred with respect to a deficit for~~
1259 ~~which the assessment was imposed remain outstanding, unless~~
1260 ~~adequate provision has been made for the payment of such bonds~~
1261 ~~or other indebtedness pursuant to the documents governing such~~
1262 ~~bonds or indebtedness.~~

1263 ~~e. As used in this subsection and for purposes of any~~
1264 ~~deficit incurred on or after January 25, 2007, the term "subject~~
1265 ~~lines of business" means insurance written by assessable~~
1266 ~~insurers or procured by assessable insureds for all property and~~
1267 ~~casualty lines of business in this state, but not including~~
1268 ~~workers' compensation or medical malpractice. As used in this~~
1269 ~~sub-subparagraph, the term "property and casualty lines of~~
1270 ~~business" includes all lines of business identified on Form 2,~~
1271 ~~Exhibit of Premiums and Losses, in the annual statement required~~
1272 ~~of authorized insurers under s. 624.424 and any rule adopted~~
1273 ~~under this section, except for those lines identified as~~
1274 ~~accident and health insurance and except for policies written~~
1275 ~~under the National Flood Insurance Program or the Federal Crop~~

1276 ~~Insurance Program. For purposes of this sub-subparagraph, the~~
1277 ~~term "workers' compensation" includes both workers' compensation~~
1278 ~~insurance and excess workers' compensation insurance.~~

1279 ~~f. The Florida Surplus Lines Service Office shall annually~~
1280 ~~determine the aggregate statewide written premium in subject~~
1281 ~~lines of business procured by assessable insureds and report~~
1282 ~~that information to the corporation in a form and at a time the~~
1283 ~~corporation specifies to ensure that the corporation can meet~~
1284 ~~the requirements of this subsection and the corporation's~~
1285 ~~financing obligations.~~

1286 ~~g. The Florida Surplus Lines Service Office shall verify~~
1287 ~~the proper application by surplus lines agents of assessment~~
1288 ~~percentages for emergency assessments levied under this~~
1289 ~~subparagraph on assessable insureds and assist the corporation~~
1290 ~~in ensuring the accurate, timely collection and payment of~~
1291 ~~assessments by surplus lines agents as required by the~~
1292 ~~corporation.~~

1293 ~~h. If the amount of any assessments or surcharges~~
1294 ~~collected from corporation policyholders, assessable insurers or~~
1295 ~~their policyholders, or assessable insureds exceeds the amount~~
1296 ~~of the deficits, such excess amounts shall be remitted to and~~
1297 ~~retained by the corporation in a reserve to be used by the~~
1298 ~~corporation, as determined by the board of governors and~~
1299 ~~approved by the office, to pay claims or reduce any past,~~
1300 ~~present, or future plan-year deficits or to reduce outstanding~~

1301 ~~debt.~~

1302 (c) The corporation's plan of operation:

1303 1. Must provide for adoption of residential property and
 1304 casualty insurance policy forms and commercial residential and
 1305 nonresidential property insurance forms, which must be approved
 1306 by the office before use. The corporation shall adopt the
 1307 following policy forms:

1308 a. Standard personal lines policy forms that are
 1309 comprehensive multiperil policies providing full coverage of a
 1310 residential property equivalent to the coverage provided in the
 1311 private insurance market under an HO-3, HO-4, or HO-6 policy.

1312 b. Basic personal lines policy forms that are policies
 1313 similar to an HO-8 policy or a dwelling fire policy that provide
 1314 coverage meeting the requirements of the secondary mortgage
 1315 market, but which is more limited than the coverage under a
 1316 standard policy.

1317 c. Commercial lines residential and nonresidential policy
 1318 forms that are generally similar to the basic perils of full
 1319 coverage obtainable for commercial residential structures and
 1320 commercial nonresidential structures in the admitted voluntary
 1321 market.

1322 d. Personal lines and commercial lines residential
 1323 property insurance forms that cover the peril of wind only. The
 1324 forms are applicable only to residential properties located in
 1325 areas eligible for coverage by the Florida Windstorm

1326 Underwriting Association, as those areas were defined on January
 1327 1, 2002.

1328 e. Commercial lines nonresidential property insurance
 1329 forms that cover the peril of wind only. The forms are
 1330 applicable only to nonresidential properties located in areas
 1331 eligible for coverage by the Florida Windstorm Underwriting
 1332 Association, as those areas were defined on January 1, 2002.

1333 f. The corporation may adopt variations of the policy
 1334 forms listed in sub-subparagraphs a.-e. which contain more
 1335 restrictive coverage.

1336 g. The corporation shall offer a basic personal lines
 1337 policy similar to an HO-8 policy with dwelling repair based on
 1338 common construction materials and methods.

1339 2. Must provide that the corporation adopt a program in
 1340 which the corporation and authorized insurers enter into quota
 1341 share primary insurance agreements for hurricane coverage, as
 1342 defined in s. 627.4025(2)(a), for eligible risks, and adopt
 1343 property insurance forms for eligible risks which cover the
 1344 peril of wind only.

1345 a. As used in this subsection, the term:

1346 (I) "Approved rate" means:

1347 (A) With respect to an authorized insurer that holds a
 1348 certificate of authority, such insurer's filed and approved
 1349 rate.

1350 (B) With respect to an authorized insurer that is an

1351 eligible surplus lines insurer, the rate approved by the office
 1352 as part of such insurer's take-out plan.

1353 (II) "Authorized insurer" means:

1354 (A) An insurer holding a certificate of authority; or

1355 (B) An eligible surplus lines insurer that is rated "A-"
 1356 or higher by A.M. Best Company and whose Florida personal lines
 1357 residential risk or commercial lines residential risk program is
 1358 managed by a Florida resident surplus lines broker.

1359 (IV) "Primary residence" means the dwelling that is the
 1360 policyholder's primary home or is a rental property that is the
 1361 primary home of the tenant, and which the policyholder or tenant
 1362 occupies for more than 9 months of each year.

1363 (V)~~(I)~~ "Quota share primary insurance" means an
 1364 arrangement in which the primary hurricane coverage of an
 1365 eligible risk is provided in specified percentages by the
 1366 corporation and an authorized insurer. The corporation and
 1367 authorized insurer are each solely responsible for a specified
 1368 percentage of hurricane coverage of an eligible risk as set
 1369 forth in a quota share primary insurance agreement between the
 1370 corporation and an authorized insurer and the insurance
 1371 contract. The responsibility of the corporation or authorized
 1372 insurer to pay its specified percentage of hurricane losses of
 1373 an eligible risk, as set forth in the agreement, may not be
 1374 altered by the inability of the other party to pay its specified
 1375 percentage of losses. Eligible risks that are provided hurricane

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1376 coverage through a quota share primary insurance arrangement
1377 must be provided policy forms that set forth the obligations of
1378 the corporation and authorized insurer under the arrangement,
1379 clearly specify the percentages of quota share primary insurance
1380 provided by the corporation and authorized insurer, and
1381 conspicuously and clearly state that the authorized insurer and
1382 the corporation may not be held responsible beyond their
1383 specified percentage of coverage of hurricane losses.

1384 (III)~~(II)~~ "Eligible risks" means personal lines
1385 residential and commercial lines residential risks that meet the
1386 underwriting criteria of the corporation and are located in
1387 areas that were eligible for coverage by the Florida Windstorm
1388 Underwriting Association on January 1, 2002.

1389 b. The corporation may enter into quota share primary
1390 insurance agreements with authorized insurers at corporation
1391 coverage levels of 90 percent and 50 percent.

1392 c. If the corporation determines that additional coverage
1393 levels are necessary to maximize participation in quota share
1394 primary insurance agreements by authorized insurers, the
1395 corporation may establish additional coverage levels. However,
1396 the corporation's quota share primary insurance coverage level
1397 may not exceed 90 percent.

1398 d. Any quota share primary insurance agreement entered
1399 into between an authorized insurer and the corporation must
1400 provide for a uniform specified percentage of coverage of

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1401 hurricane losses, by county or territory as set forth by the
1402 corporation board, for all eligible risks of the authorized
1403 insurer covered under the agreement.

1404 e. Any quota share primary insurance agreement entered
1405 into between an authorized insurer and the corporation is
1406 subject to review and approval by the office. However, such
1407 agreement shall be authorized only as to insurance contracts
1408 entered into between an authorized insurer and an insured who is
1409 already insured by the corporation for wind coverage.

1410 f. For all eligible risks covered under quota share
1411 primary insurance agreements, the exposure and coverage levels
1412 for both the corporation and authorized insurers shall be
1413 reported by the corporation to the Florida Hurricane Catastrophe
1414 Fund. For all policies of eligible risks covered under such
1415 agreements, the corporation and the authorized insurer must
1416 maintain complete and accurate records for the purpose of
1417 exposure and loss reimbursement audits as required by fund
1418 rules. The corporation and the authorized insurer shall each
1419 maintain duplicate copies of policy declaration pages and
1420 supporting claims documents.

1421 g. The corporation board shall establish in its plan of
1422 operation standards for quota share agreements which ensure that
1423 there is no discriminatory application among insurers as to the
1424 terms of the agreements, pricing of the agreements, incentive
1425 provisions if any, and consideration paid for servicing policies

1426 or adjusting claims.

1427 h. The quota share primary insurance agreement between the
 1428 corporation and an authorized insurer must set forth the
 1429 specific terms under which coverage is provided, including, but
 1430 not limited to, the sale and servicing of policies issued under
 1431 the agreement by the insurance agent of the authorized insurer
 1432 producing the business, the reporting of information concerning
 1433 eligible risks, the payment of premium to the corporation, and
 1434 arrangements for the adjustment and payment of hurricane claims
 1435 incurred on eligible risks by the claims adjuster and personnel
 1436 of the authorized insurer. Entering into a quota sharing
 1437 insurance agreement between the corporation and an authorized
 1438 insurer is voluntary and at the discretion of the authorized
 1439 insurer.

1440 3. May provide that the corporation may employ or
 1441 otherwise contract with individuals or other entities to provide
 1442 administrative or professional services that may be appropriate
 1443 to effectuate the plan. The corporation may borrow funds by
 1444 issuing bonds or by incurring other indebtedness, and shall have
 1445 other powers reasonably necessary to effectuate the requirements
 1446 of this subsection, including, without limitation, the power to
 1447 issue bonds and incur other indebtedness in order to refinance
 1448 outstanding bonds or other indebtedness. The corporation may
 1449 seek judicial validation of its bonds or other indebtedness
 1450 under chapter 75. The corporation may issue bonds or incur other

1451 indebtedness, or have bonds issued on its behalf by a unit of
1452 local government pursuant to subparagraph (q)2. in the absence
1453 of a hurricane or other weather-related event, upon a
1454 determination by the corporation, subject to approval by the
1455 office, that such action would enable it to efficiently meet the
1456 financial obligations of the corporation and that such
1457 financings are reasonably necessary to effectuate the
1458 requirements of this subsection. The corporation may take all
1459 actions needed to facilitate tax-free status for such bonds or
1460 indebtedness, including formation of trusts or other affiliated
1461 entities. The corporation may pledge assessments, projected
1462 recoveries from the Florida Hurricane Catastrophe Fund, other
1463 reinsurance recoverables, policyholder surcharges and other
1464 surcharges, and other funds available to the corporation as
1465 security for bonds or other indebtedness. In recognition of s.
1466 10, Art. I of the State Constitution, prohibiting the impairment
1467 of obligations of contracts, it is the intent of the Legislature
1468 that no action be taken whose purpose is to impair any bond
1469 indenture or financing agreement or any revenue source committed
1470 by contract to such bond or other indebtedness.

1471 4. Must require that the corporation operate subject to
1472 the supervision and approval of a board of governors consisting
1473 of nine individuals who are residents of this state and who are
1474 from different geographical areas of the state, one of whom is
1475 appointed by the Governor and serves solely to advocate on

1476 | behalf of the consumer. The appointment of a consumer
1477 | representative by the Governor is deemed to be within the scope
1478 | of the exemption provided in s. 112.313(7) (b) and is in addition
1479 | to the appointments authorized under sub-subparagraph a.

1480 | a. The Governor, the Chief Financial Officer, the
1481 | President of the Senate, and the Speaker of the House of
1482 | Representatives shall each appoint two members of the board. At
1483 | least one of the two members appointed by each appointing
1484 | officer must have demonstrated expertise in insurance and be
1485 | deemed to be within the scope of the exemption provided in s.
1486 | 112.313(7) (b). The Chief Financial Officer shall designate one
1487 | of the appointees as chair. All board members serve at the
1488 | pleasure of the appointing officer. All members of the board are
1489 | subject to removal at will by the officers who appointed them.
1490 | All board members, including the chair, must be appointed to
1491 | serve for 3-year terms beginning annually on a date designated
1492 | by the plan. However, for the first term beginning on or after
1493 | July 1, 2009, each appointing officer shall appoint one member
1494 | of the board for a 2-year term and one member for a 3-year term.
1495 | A board vacancy shall be filled for the unexpired term by the
1496 | appointing officer. The Chief Financial Officer shall appoint a
1497 | technical advisory group to provide information and advice to
1498 | the board in connection with the board's duties under this
1499 | subsection. The executive director and senior managers of the
1500 | corporation shall be engaged by the board and serve at the

1501 pleasure of the board. Any executive director appointed on or
1502 after July 1, 2006, is subject to confirmation by the Senate.
1503 The executive director is responsible for employing other staff
1504 as the corporation may require, subject to review and
1505 concurrence by the board.

1506 b. The board shall create a Market Accountability Advisory
1507 Committee to assist the corporation in developing awareness of
1508 its rates and its customer and agent service levels in
1509 relationship to the voluntary market insurers writing similar
1510 coverage.

1511 (I) The members of the advisory committee consist of the
1512 following 11 persons, one of whom must be elected chair by the
1513 members of the committee: four representatives, one appointed by
1514 the Florida Association of Insurance Agents, one by the Florida
1515 Association of Insurance and Financial Advisors, one by the
1516 Professional Insurance Agents of Florida, and one by the Latin
1517 American Association of Insurance Agencies; three
1518 representatives appointed by the insurers with the three highest
1519 voluntary market share of residential property insurance
1520 business in the state; one representative from the Office of
1521 Insurance Regulation; one consumer appointed by the board who is
1522 insured by the corporation at the time of appointment to the
1523 committee; one representative appointed by the Florida
1524 Association of Realtors; and one representative appointed by the
1525 Florida Bankers Association. All members shall be appointed to

1526 3-year terms and may serve for consecutive terms.

1527 (II) The committee shall report to the corporation at each
 1528 board meeting on insurance market issues which may include rates
 1529 and rate competition with the voluntary market; service,
 1530 including policy issuance, claims processing, and general
 1531 responsiveness to policyholders, applicants, and agents; and
 1532 matters relating to depopulation.

1533 5. Must provide a procedure for determining the
 1534 eligibility of a risk for coverage, as follows:

1535 a. Subject to s. 627.3517, with respect to personal lines
 1536 residential risks, if the risk is offered coverage from an
 1537 authorized insurer at the insurer's approved rate under a
 1538 standard policy including wind coverage or, if consistent with
 1539 the insurer's underwriting rules as filed with the office, a
 1540 basic policy including wind coverage, for a new application to
 1541 the corporation for coverage, the risk is not eligible for any
 1542 policy issued by the corporation unless the premium for coverage
 1543 from the authorized insurer is more than 20 percent greater than
 1544 the premium for comparable coverage from the corporation.

1545 Whenever an offer of coverage for a personal lines residential
 1546 risk is received for a policyholder of the corporation at
 1547 renewal from an authorized insurer, if the offer is equal to or
 1548 less than the corporation's renewal premium for comparable
 1549 coverage, the risk is not eligible for coverage with the
 1550 corporation for policies that renew before April 1, 2023; for

1551 policies that renew on or after that date, the risk is not
1552 eligible for coverage with the corporation unless the premium
1553 for coverage from the authorized insurer is more than 20 percent
1554 greater than the corporation's renewal premium for comparable
1555 coverage. If the risk is not able to obtain such offer, the risk
1556 is eligible for a standard policy including wind coverage or a
1557 basic policy including wind coverage issued by the corporation;
1558 however, if the risk could not be insured under a standard
1559 policy including wind coverage regardless of market conditions,
1560 the risk is eligible for a basic policy including wind coverage
1561 unless rejected under subparagraph 8. The corporation shall
1562 determine the type of policy to be provided on the basis of
1563 objective standards specified in the underwriting manual and
1564 based on generally accepted underwriting practices. A
1565 policyholder removed from the corporation through an assumption
1566 agreement does not remain eligible for coverage from the
1567 corporation after the end of the policy term. However, any
1568 policy removed from the corporation through an assumption
1569 agreement remains on the corporation's policy forms through the
1570 end of the policy term. However, notwithstanding any other
1571 provision of law, this sub-subparagraph does not apply to a
1572 policy that does not cover a primary residence.

1573 (I) If the risk accepts an offer of coverage through the
1574 market assistance plan or through a mechanism established by the
1575 corporation other than a plan established by s. 627.3518, before

1576 a policy is issued to the risk by the corporation or during the
 1577 first 30 days of coverage by the corporation, and the producing
 1578 agent who submitted the application to the plan or to the
 1579 corporation is not currently appointed by the insurer, the
 1580 insurer shall:

1581 (A) Pay to the producing agent of record of the policy for
 1582 the first year, an amount that is the greater of the insurer's
 1583 usual and customary commission for the type of policy written or
 1584 a fee equal to the usual and customary commission of the
 1585 corporation; or

1586 (B) Offer to allow the producing agent of record of the
 1587 policy to continue servicing the policy for at least 1 year and
 1588 offer to pay the agent the greater of the insurer's or the
 1589 corporation's usual and customary commission for the type of
 1590 policy written.

1591
 1592 If the producing agent is unwilling or unable to accept
 1593 appointment for any reason, including the failure of such agent
 1594 to be licensed as a surplus lines agent, the new insurer shall
 1595 pay the agent in accordance with sub-sub-sub-subparagraph (A).

1596 (II) If the corporation enters into a contractual
 1597 agreement for a take-out plan, the producing agent of record of
 1598 the corporation policy is entitled to retain any unearned
 1599 commission on the policy, and the insurer shall:

1600 (A) Pay to the producing agent of record, for the first

1601 year, an amount that is the greater of the insurer's usual and
 1602 customary commission for the type of policy written or a fee
 1603 equal to the usual and customary commission of the corporation;
 1604 or

1605 (B) Offer to allow the producing agent of record to
 1606 continue servicing the policy for at least 1 year and offer to
 1607 pay the agent the greater of the insurer's or the corporation's
 1608 usual and customary commission for the type of policy written.

1609
 1610 If the producing agent is unwilling or unable to accept
 1611 appointment for any reason, including the failure of such agent
 1612 to be licensed as a surplus lines agent, the new insurer shall
 1613 pay the agent in accordance with sub-sub-sub-subparagraph (A).
 1614 This sub-sub-subparagraph does not apply to an authorized
 1615 insurer that is an eligible surplus lines insurer.

1616 b. With respect to commercial lines residential risks, for
 1617 a new application to the corporation for coverage, if the risk
 1618 is offered coverage under a policy including wind coverage from
 1619 an admitted ~~authorized~~ insurer at its approved rate, the risk is
 1620 not eligible for a policy issued by the corporation unless the
 1621 premium for coverage from the admitted ~~authorized~~ insurer is
 1622 more than 20 percent greater than the premium for comparable
 1623 coverage from the corporation. Whenever an offer of coverage for
 1624 a commercial lines residential risk is received for a
 1625 policyholder of the corporation at renewal from an admitted

1626 ~~authorized~~ insurer, the risk is not eligible for coverage with
1627 the corporation unless the premium for coverage from the
1628 admitted ~~authorized~~ insurer is more than 20 percent greater than
1629 the corporation's renewal premium for comparable coverage. If
1630 the risk is not able to obtain any such offer, the risk is
1631 eligible for a policy including wind coverage issued by the
1632 corporation. A policyholder removed from the corporation through
1633 an assumption agreement remains eligible for coverage from the
1634 corporation until the end of the policy term. However, any
1635 policy removed from the corporation through an assumption
1636 agreement remains on the corporation's policy forms through the
1637 end of the policy term. With respect to commercial lines
1638 residential risks for a new application to the corporation for
1639 coverage, if the risk is offered coverage from an eligible
1640 surplus lines insurer at the insurer's approved rate under a
1641 policy including wind coverage, the risk is not eligible for a
1642 policy issued by the corporation. If an offer of coverage for a
1643 commercial lines residential risk is received for a policyholder
1644 of the corporation by an eligible surplus lines insurer at
1645 renewal, the risk is not eligible for coverage with the
1646 corporation.

1647 (I) If the risk accepts an offer of coverage through the
1648 market assistance plan or through a mechanism established by the
1649 corporation other than a plan established by s. 627.3518, before
1650 a policy is issued to the risk by the corporation or during the

1651 first 30 days of coverage by the corporation, and the producing
 1652 agent who submitted the application to the plan or the
 1653 corporation is not currently appointed by the insurer, the
 1654 insurer shall:

1655 (A) Pay to the producing agent of record of the policy,
 1656 for the first year, an amount that is the greater of the
 1657 insurer's usual and customary commission for the type of policy
 1658 written or a fee equal to the usual and customary commission of
 1659 the corporation; or

1660 (B) Offer to allow the producing agent of record of the
 1661 policy to continue servicing the policy for at least 1 year and
 1662 offer to pay the agent the greater of the insurer's or the
 1663 corporation's usual and customary commission for the type of
 1664 policy written.

1665
 1666 If the producing agent is unwilling or unable to accept
 1667 appointment for any reason, including the failure of such agent
 1668 to be licensed as a surplus lines agent, the new insurer shall
 1669 pay the agent in accordance with sub-sub-sub-subparagraph (A).
 1670 This sub-sub-subparagraph does not apply to an authorized
 1671 insurer that is an eligible surplus lines insurer.

1672 (II) If the corporation enters into a contractual
 1673 agreement for a take-out plan, the producing agent of record of
 1674 the corporation policy is entitled to retain any unearned
 1675 commission on the policy, and the insurer shall:

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1676 (A) Pay to the producing agent of record, for the first
1677 year, an amount that is the greater of the insurer's usual and
1678 customary commission for the type of policy written or a fee
1679 equal to the usual and customary commission of the corporation;
1680 or

1681 (B) Offer to allow the producing agent of record to
1682 continue servicing the policy for at least 1 year and offer to
1683 pay the agent the greater of the insurer's or the corporation's
1684 usual and customary commission for the type of policy written.

1685
1686 If the producing agent is unwilling or unable to accept
1687 appointment for any reason, including the failure of such agent
1688 to be licensed as a surplus lines agent, the new insurer shall
1689 pay the agent in accordance with sub-sub-sub-subparagraph (A).
1690 This sub-sub-subparagraph does not apply to an authorized
1691 insurer that is an eligible surplus lines insurer.

1692 c. For purposes of determining comparable coverage under
1693 sub-subparagraphs a. and b., the comparison must be based on
1694 those forms and coverages that are reasonably comparable. The
1695 corporation may rely on a determination of comparable coverage
1696 and premium made by the producing agent who submits the
1697 application to the corporation, made in the agent's capacity as
1698 the corporation's agent. For purposes of comparing the premium
1699 for comparable coverage under sub-subparagraphs a. and b.,
1700 premium includes any surcharge or assessment that is actually

1701 applied to such policy. A comparison may be made solely of the
 1702 premium with respect to the main building or structure only on
 1703 the following basis: the same Coverage A or other building
 1704 limits; the same percentage hurricane deductible that applies on
 1705 an annual basis or that applies to each hurricane for commercial
 1706 residential property; the same percentage of ordinance and law
 1707 coverage, if the same limit is offered by both the corporation
 1708 and the authorized insurer; the same mitigation credits, to the
 1709 extent the same types of credits are offered both by the
 1710 corporation and the authorized insurer; the same method for loss
 1711 payment, such as replacement cost or actual cash value, if the
 1712 same method is offered both by the corporation and the
 1713 authorized insurer in accordance with underwriting rules; and
 1714 any other form or coverage that is reasonably comparable as
 1715 determined by the board. If an application is submitted to the
 1716 corporation for wind-only coverage on a risk that is located in
 1717 an area eligible for coverage by the Florida Windstorm
 1718 Underwriting Association, as that area was defined on January 1,
 1719 2002, the premium for the corporation's wind-only policy plus
 1720 the premium for the ex-wind policy that is offered by an
 1721 authorized insurer to the applicant must be compared to the
 1722 premium for multiperil coverage offered by an authorized
 1723 insurer, subject to the standards for comparison specified in
 1724 this subparagraph. If the corporation or the applicant requests
 1725 from the authorized insurer a breakdown of the premium of the

1726 offer by types of coverage so that a comparison may be made by
1727 the corporation or its agent and the authorized insurer refuses
1728 or is unable to provide such information, the corporation may
1729 treat the offer as not being an offer of coverage from an
1730 authorized insurer at the insurer's approved rate. However,
1731 notwithstanding any other provision of law, this sub-
1732 subparagraph does not apply to a policy that does not cover a
1733 primary residence.

1734 6. Must include rules for classifications of risks and
1735 rates.

1736 7. Must provide that if premium and investment income:

1737 ~~a.~~ for the Citizens an account, which are attributable to
1738 a particular calendar year are in excess of projected losses and
1739 expenses for the Citizens account attributable to that year,
1740 such excess shall be held in surplus in the Citizens account.
1741 Such surplus must be available to defray deficits in the
1742 Citizens ~~that~~ account as to future years and used for that
1743 purpose before assessing assessable insurers and assessable
1744 insureds as to any calendar year, ~~or~~

1745 ~~b. For the Citizens account, if established by the~~
1746 ~~corporation, which are attributable to a particular calendar~~
1747 ~~year are in excess of projected losses and expenses for the~~
1748 ~~Citizens account attributable to that year, such excess shall be~~
1749 ~~held in surplus in the Citizens account. Such surplus must be~~
1750 ~~available to defray deficits in the Citizens account as to~~

1751 ~~future years and used for that purpose before assessing~~
1752 ~~assessable insurers and assessable insureds as to any calendar~~
1753 ~~year.~~

1754 8. Must provide objective criteria and procedures to be
1755 uniformly applied to all applicants in determining whether an
1756 individual risk is so hazardous as to be uninsurable. In making
1757 this determination and in establishing the criteria and
1758 procedures, the following must be considered:

1759 a. Whether the likelihood of a loss for the individual
1760 risk is substantially higher than for other risks of the same
1761 class; and

1762 b. Whether the uncertainty associated with the individual
1763 risk is such that an appropriate premium cannot be determined.

1764
1765 The acceptance or rejection of a risk by the corporation shall
1766 be construed as the private placement of insurance, and the
1767 provisions of chapter 120 do not apply.

1768 9. Must provide that the corporation make its best efforts
1769 to procure catastrophe reinsurance at reasonable rates, to cover
1770 its projected 100-year probable maximum loss as determined by
1771 the board of governors. If catastrophe reinsurance is not
1772 available at reasonable rates, the corporation need not purchase
1773 it, but the corporation shall include the costs of reinsurance
1774 to cover its projected 100-year probable maximum loss in its
1775 rate calculations even if it does not purchase catastrophe

1776 reinsurance.

1777 10. The policies issued by the corporation must provide
 1778 that if the corporation or the market assistance plan obtains an
 1779 offer from an authorized insurer to cover the risk at its
 1780 approved rates, the risk is no longer eligible for renewal
 1781 through the corporation, except as otherwise provided in this
 1782 subsection.

1783 11. Corporation policies and applications must include a
 1784 notice that the corporation policy could, under this section, be
 1785 replaced with a policy issued by an authorized insurer which
 1786 does not provide coverage identical to the coverage provided by
 1787 the corporation. The notice must also specify that acceptance of
 1788 corporation coverage creates a conclusive presumption that the
 1789 applicant or policyholder is aware of this potential.

1790 12. May establish, subject to approval by the office,
 1791 different eligibility requirements and operational procedures
 1792 for any line or type of coverage for any specified county or
 1793 area if the board determines that such changes are justified due
 1794 to the voluntary market being sufficiently stable and
 1795 competitive in such area or for such line or type of coverage
 1796 and that consumers who, in good faith, are unable to obtain
 1797 insurance through the voluntary market through ordinary methods
 1798 continue to have access to coverage from the corporation. If
 1799 coverage is sought in connection with a real property transfer,
 1800 the requirements and procedures may not provide an effective

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1801 date of coverage later than the date of the closing of the
1802 transfer as established by the transferor, the transferee, and,
1803 if applicable, the lender.

1804 ~~13. Must provide that:~~

1805 ~~a. With respect to the coastal account, any assessable~~
1806 ~~insurer with a surplus as to policyholders of \$25 million or~~
1807 ~~less writing 25 percent or more of its total countrywide~~
1808 ~~property insurance premiums in this state may petition the~~
1809 ~~office, within the first 90 days of each calendar year, to~~
1810 ~~qualify as a limited apportionment company. A regular assessment~~
1811 ~~levied by the corporation on a limited apportionment company for~~
1812 ~~a deficit incurred by the corporation for the coastal account~~
1813 ~~may be paid to the corporation on a monthly basis as the~~
1814 ~~assessments are collected by the limited apportionment company~~
1815 ~~from its insureds, but a limited apportionment company must~~
1816 ~~begin collecting the regular assessments not later than 90 days~~
1817 ~~after the regular assessments are levied by the corporation, and~~
1818 ~~the regular assessments must be paid in full within 15 months~~
1819 ~~after being levied by the corporation. A limited apportionment~~
1820 ~~company shall collect from its policyholders any emergency~~
1821 ~~assessment imposed under sub-subparagraph (b)3.c. The plan must~~
1822 ~~provide that, if the office determines that any regular~~
1823 ~~assessment will result in an impairment of the surplus of a~~
1824 ~~limited apportionment company, the office may direct that all or~~
1825 ~~part of such assessment be deferred as provided in subparagraph~~

1826 ~~(q)4. However, an emergency assessment to be collected from~~
 1827 ~~policyholders under sub-subparagraph (b)3.c. may not be limited~~
 1828 ~~or deferred; or~~

1829 ~~b. With respect to the Citizens account, if established by~~
 1830 ~~the corporation pursuant to sub-subparagraph (b)2.b., any~~
 1831 ~~assessable insurer with a surplus as to policyholders of \$25~~
 1832 ~~million or less and writing 25 percent or more of its total~~
 1833 ~~countrywide property insurance premiums in this state may~~
 1834 ~~petition the office, within the first 90 days of each calendar~~
 1835 ~~year, to qualify as a limited apportionment company. A limited~~
 1836 ~~apportionment company shall collect from its policyholders any~~
 1837 ~~emergency assessment imposed under sub-subparagraph (b)5.c. An~~
 1838 ~~emergency assessment to be collected from policyholders under~~
 1839 ~~sub-subparagraph (b)5.c. may not be limited or deferred.~~

1840 13.14. Must provide that the corporation appoint as its
 1841 licensed agents only those agents who throughout such
 1842 appointments also hold an appointment as defined in s. 626.015
 1843 by at least three insurers ~~an insurer~~ who are ~~is~~ authorized to
 1844 write and are ~~is~~ actually writing or renewing personal lines
 1845 residential property coverage, commercial residential property
 1846 coverage, or commercial nonresidential property coverage within
 1847 the state.

1848 14.15. Must provide a premium payment plan option to its
 1849 policyholders which, at a minimum, allows for quarterly and
 1850 semiannual payment of premiums. A monthly payment plan may, but

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1851 is not required to, be offered.

1852 ~~15.16.~~ Must limit coverage on mobile homes or manufactured
1853 homes built before 1994 to actual cash value of the dwelling
1854 rather than replacement costs of the dwelling.

1855 ~~16.17.~~ Must provide coverage for manufactured or mobile
1856 home dwellings. Such coverage must also include the following
1857 attached structures:

1858 a. Screened enclosures that are aluminum framed or
1859 screened enclosures that are not covered by the same or
1860 substantially the same materials as those of the primary
1861 dwelling;

1862 b. Carports that are aluminum or carports that are not
1863 covered by the same or substantially the same materials as those
1864 of the primary dwelling; and

1865 c. Patios that have a roof covering that is constructed of
1866 materials that are not the same or substantially the same
1867 materials as those of the primary dwelling.

1868
1869 The corporation shall make available a policy for mobile homes
1870 or manufactured homes for a minimum insured value of at least
1871 \$3,000.

1872 ~~17.18.~~ May provide such limits of coverage as the board
1873 determines, consistent with the requirements of this subsection.

1874 ~~18.19.~~ May require commercial property to meet specified
1875 hurricane mitigation construction features as a condition of

1876 eligibility for coverage.

1877 ~~19.20.~~ Must provide that new or renewal policies issued by
 1878 the corporation on or after January 1, 2012, which cover
 1879 sinkhole loss do not include coverage for any loss to
 1880 appurtenant structures, driveways, sidewalks, decks, or patios
 1881 that are directly or indirectly caused by sinkhole activity. The
 1882 corporation shall exclude such coverage using a notice of
 1883 coverage change, which may be included with the policy renewal,
 1884 and not by issuance of a notice of nonrenewal of the excluded
 1885 coverage upon renewal of the current policy.

1886 ~~20.a.21.a. As of January 1, 2012, unless the Citizens~~
 1887 ~~account has been established pursuant to sub-subparagraph~~
 1888 ~~(b)2.b.,~~ Must require that the agent obtain from an applicant
 1889 for coverage from the corporation the following an
 1890 acknowledgment signed by the applicant, which includes, at a
 1891 minimum, the following statement:

ACKNOWLEDGMENT OF POTENTIAL SURCHARGE
 AND ASSESSMENT LIABILITY:

1894 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
 1895 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
 1896 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
 1897 MY POLICY COULD BE SUBJECT TO SURCHARGES AND ASSESSMENTS, WHICH
 1898 WILL BE DUE AND PAYABLE UPON RENEWAL, CANCELLATION, OR
 1899 TERMINATION OF THE POLICY, AND THAT THE SURCHARGES AND
 1900 ASSESSMENTS COULD BE AS HIGH AS 25 ~~45~~ PERCENT OF MY PREMIUM, OR

1901 A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA LEGISLATURE.

1902 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER
 1903 SURCHARGE, WHICH COULD BE AS HIGH AS 25 ~~45~~ PERCENT OF MY
 1904 PREMIUM, BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND
 1905 THAT TO BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY
 1906 TO OBTAIN PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR
 1907 RENEWING COVERAGE WITH CITIZENS. I UNDERSTAND THAT PRIVATE
 1908 MARKET INSURANCE RATES ARE REGULATED AND APPROVED BY THE STATE.

1909 3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
 1910 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
 1911 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
 1912 FLORIDA LEGISLATURE.

1913 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
 1914 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
 1915 STATE OF FLORIDA.

1916 ~~b. The corporation must require, if it has established the~~
 1917 ~~Citizens account pursuant to sub-subparagraph (b)2.b., that the~~
 1918 ~~agent obtain from an applicant for coverage from the corporation~~
 1919 ~~the following acknowledgment signed by the applicant, which~~
 1920 ~~includes, at a minimum, the following statement:~~

~~ACKNOWLEDGMENT OF POTENTIAL SURCHARGE
 AND ASSESSMENT LIABILITY:~~

1923 ~~1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE~~
 1924 ~~CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A~~
 1925 ~~DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,~~

1926 | ~~MY POLICY COULD BE SUBJECT TO SURCHARGES AND ASSESSMENTS, WHICH~~
 1927 | ~~WILL BE DUE AND PAYABLE UPON RENEWAL, CANCELLATION, OR~~
 1928 | ~~TERMINATION OF THE POLICY, AND THAT THE SURCHARGES AND~~
 1929 | ~~ASSESSMENTS COULD BE AS HIGH AS 25 PERCENT OF MY PREMIUM, OR A~~
 1930 | ~~DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA LEGISLATURE.~~

1931 | ~~2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER~~
 1932 | ~~SURCHARGE, WHICH COULD BE AS HIGH AS 15 PERCENT OF MY PREMIUM,~~
 1933 | ~~BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO~~
 1934 | ~~BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN~~
 1935 | ~~PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE~~
 1936 | ~~WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES~~
 1937 | ~~ARE REGULATED AND APPROVED BY THE STATE.~~

1938 | ~~3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY~~
 1939 | ~~ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER~~
 1940 | ~~INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE~~
 1941 | ~~FLORIDA LEGISLATURE.~~

1942 | ~~4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE~~
 1943 | ~~CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE~~
 1944 | ~~STATE OF FLORIDA.~~

1945 | b.e. The corporation shall maintain, in electronic format
 1946 | or otherwise, a copy of the applicant's signed acknowledgment
 1947 | and provide a copy of the statement to the policyholder as part
 1948 | of the first renewal after the effective date of sub-
 1949 | subparagraph a. ~~or sub-subparagraph b., as applicable.~~

1950 | c.d. The signed acknowledgment form creates a conclusive

1951 presumption that the policyholder understood and accepted his or
1952 her potential surcharge and assessment liability as a
1953 policyholder of the corporation.

1954 (d)1. All prospective employees for senior management
1955 positions, as defined by the plan of operation, are subject to
1956 background checks as a prerequisite for employment. The office
1957 shall conduct the background checks pursuant to ss. 624.34,
1958 624.404(3), and 628.261.

1959 2. On or before July 1 of each year, employees of the
1960 corporation must sign and submit a statement attesting that they
1961 do not have a conflict of interest, as defined in part III of
1962 chapter 112. As a condition of employment, all prospective
1963 employees must sign and submit to the corporation a conflict-of-
1964 interest statement.

1965 3. The executive director, senior managers, and members of
1966 the board of governors are subject to part III of chapter 112,
1967 including, but not limited to, the code of ethics and public
1968 disclosure and reporting of financial interests, pursuant to s.
1969 112.3145. For purposes of applying part III of chapter 112 to
1970 activities of the executive director, senior managers, and
1971 members of the board of governors, those persons shall be
1972 considered public officers or employees and the corporation
1973 shall be considered their agency. Notwithstanding s.
1974 112.3143(2), a board member may not vote on any measure that
1975 would inure to his or her special private gain or loss; that he

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1976 or she knows would inure to the special private gain or loss of
1977 any principal by whom he or she is retained or to the parent
1978 organization or subsidiary of a corporate principal by which he
1979 or she is retained, other than an agency as defined in s.
1980 112.312; or that he or she knows would inure to the special
1981 private gain or loss of a relative or business associate of the
1982 public officer. Before the vote is taken, such member shall
1983 publicly state to the assembly the nature of his or her interest
1984 in the matter from which he or she is abstaining from voting
1985 and, within 15 days after the vote occurs, disclose the nature
1986 of his or her interest as a public record in a memorandum filed
1987 with the person responsible for recording the minutes of the
1988 meeting, who shall incorporate the memorandum in the minutes.
1989 Senior managers and board members are also required to file such
1990 disclosures with the Commission on Ethics and the Office of
1991 Insurance Regulation. The executive director of the corporation
1992 or his or her designee shall notify each existing and newly
1993 appointed member of the board of governors and senior managers
1994 of their duty to comply with the reporting requirements of part
1995 III of chapter 112. At least quarterly, the executive director
1996 or his or her designee shall submit to the Commission on Ethics
1997 a list of names of the senior managers and members of the board
1998 of governors who are subject to the public disclosure
1999 requirements under s. 112.3145.

2000 4. Notwithstanding s. 112.3148, s. 112.3149, or any other

2001 provision of law, an employee or board member may not knowingly
 2002 accept, directly or indirectly, any gift or expenditure from a
 2003 person or entity, or an employee or representative of such
 2004 person or entity, which has a contractual relationship with the
 2005 corporation or who is under consideration for a contract. An
 2006 employee or board member who fails to comply with subparagraph
 2007 3. or this subparagraph is subject to penalties provided under
 2008 ss. 112.317 and 112.3173.

2009 5. Any senior manager of the corporation who is employed
 2010 on or after January 1, 2007, regardless of the date of hire, who
 2011 subsequently retires or terminates employment is prohibited from
 2012 representing another person or entity before the corporation for
 2013 2 years after retirement or termination of employment from the
 2014 corporation.

2015 6. The executive director, members of the board of
 2016 governors, and senior managers of the corporation are prohibited
 2017 from having any employment or contractual relationship for 2
 2018 years after retirement from or termination of service to the
 2019 corporation with an insurer that has entered into a take-out
 2020 bonus agreement with the corporation.

2021 (e) The corporation is subject to s. 287.057 for the
 2022 purchase of commodities and contractual services except as
 2023 otherwise provided in this paragraph. Services provided by
 2024 tradepersons or technical experts to assist a licensed adjuster
 2025 in the evaluation of individual claims are not subject to the

2026 procurement requirements of this section. Additionally, the
2027 procurement of financial services providers and underwriters
2028 must be made pursuant to s. 627.3513. Contracts for goods or
2029 services valued at or more than \$100,000 are subject to approval
2030 by the board.

2031 1. The corporation is an agency for purposes of s.
2032 287.057, except that, for purposes of s. 287.057(24), the
2033 corporation is an eligible user.

2034 a. The authority of the Department of Management Services
2035 and the Chief Financial Officer under s. 287.057 extends to the
2036 corporation as if the corporation were an agency.

2037 b. The executive director of the corporation is the agency
2038 head under s. 287.057, ~~except for resolution of bid protests for~~
2039 ~~which the board would serve as the agency head.~~ The executive
2040 director may assign or appoint a designee to act on his or her
2041 behalf.

2042 2. The corporation must provide notice of a decision or
2043 intended decision concerning a solicitation, contract award, or
2044 exceptional purchase by electronic posting. Such notice must
2045 contain the following statement: "Failure to file a protest
2046 within the time prescribed in this section constitutes a waiver
2047 of proceedings."

2048 a. A person adversely affected by the corporation's
2049 decision or intended decision to award a contract pursuant to s.
2050 287.057(1) or (3)(c) who elects to challenge the decision must

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2051 file a written notice of protest with the executive director of
2052 the corporation within 72 hours after the corporation posts a
2053 notice of its decision or intended decision. For a protest of
2054 the terms, conditions, and specifications contained in a
2055 solicitation, including provisions governing the methods for
2056 ranking bids, proposals, replies, awarding contracts, reserving
2057 rights of further negotiation, or modifying or amending any
2058 contract, the notice of protest must be filed in writing within
2059 72 hours after posting the solicitation. Saturdays, Sundays, and
2060 state holidays are excluded in the computation of the 72-hour
2061 time period.

2062 b. A formal written protest must be filed within 10 days
2063 after the date the notice of protest is filed. The formal
2064 written protest must state with particularity the facts and law
2065 upon which the protest is based. Upon receipt of a formal
2066 written protest that has been timely filed, the corporation must
2067 stop the solicitation or contract award process until the
2068 subject of the protest is resolved by final board action unless
2069 the executive director sets forth in writing particular facts
2070 and circumstances that require the continuance of the
2071 solicitation or contract award process without delay in order to
2072 avoid an immediate and serious danger to the public health,
2073 safety, or welfare.

2074 (I) The corporation must provide an opportunity to resolve
2075 the protest by mutual agreement between the parties within 7

2076 business days after receipt of the formal written protest.

2077 (II) If the subject of a protest is not resolved by mutual
 2078 agreement within 7 business days, the corporation's board must
 2079 transmit the protest to the Division of Administrative Hearings
 2080 and contract with the division to conduct a hearing to determine
 2081 the merits of the protest and to issue a recommended order. The
 2082 contract must provide for the corporation to reimburse the
 2083 division for any costs incurred by the division for court
 2084 reporters, transcript preparation, travel, facility rental, and
 2085 other customary hearing costs in the manner set forth in s.
 2086 120.65(9). The division has jurisdiction to determine the facts
 2087 and law concerning the protest and to issue a recommended order.
 2088 The division's rules and procedures apply to these proceedings;
 2089 ~~the division's applicable bond requirements do not apply.~~ The
 2090 protest must be heard by the division at a publicly noticed
 2091 meeting in accordance with procedures established by the
 2092 division.

2093 c. In a protest of an invitation-to-bid or request-for-
 2094 proposals procurement, submissions made after the bid or
 2095 proposal opening which amend or supplement the bid or proposal
 2096 may not be considered. In protesting an invitation-to-negotiate
 2097 procurement, submissions made after the corporation announces
 2098 its intent to award a contract, reject all replies, or withdraw
 2099 the solicitation that amends or supplements the reply may not be
 2100 considered. Unless otherwise provided by law, the burden of

2101 proof rests with the party protesting the corporation's action.
 2102 In a competitive-procurement protest, other than a rejection of
 2103 all bids, proposals, or replies, the administrative law judge
 2104 must conduct a de novo proceeding to determine whether the
 2105 corporation's proposed action is contrary to the corporation's
 2106 governing statutes, the corporation's rules or policies, or the
 2107 solicitation specifications. The standard of proof for the
 2108 proceeding is whether the corporation's action was clearly
 2109 erroneous, contrary to competition, arbitrary, or capricious. In
 2110 any bid-protest proceeding contesting an intended corporation
 2111 action to reject all bids, proposals, or replies, the standard
 2112 of review by the board is whether the corporation's intended
 2113 action is illegal, arbitrary, dishonest, or fraudulent.

2114 d. Failure to file a notice of protest or failure to file
 2115 a formal written protest constitutes a waiver of proceedings.

2116 3. The ~~board, acting as~~ agency head or his or her
 2117 designee, shall consider the recommended order of an
 2118 administrative law judge ~~in a public meeting~~ and take final
 2119 action on the protest. Any further legal remedy lies with the
 2120 First District Court of Appeal.

2121 (f) The corporation is subject to the provisions of
 2122 chapter 255.

2123 (g) The board shall determine whether it is more cost-
 2124 effective and in the best interests of the corporation to use
 2125 legal services provided by in-house attorneys employed by the

2126 corporation rather than contracting with outside counsel. In
 2127 making such determination, the board shall document its findings
 2128 and shall consider: the expertise needed; whether time
 2129 commitments exceed in-house staff resources; whether local
 2130 representation is needed; the travel, lodging and other costs
 2131 associated with in-house representation; and such other factors
 2132 that the board determines are relevant.

2133 (h) The corporation may not retain a lobbyist to represent
 2134 it before the legislative branch or executive branch. However,
 2135 full-time employees of the corporation may register as lobbyists
 2136 and represent the corporation before the legislative branch or
 2137 executive branch.

2138 (i)1. The Office of the Internal Auditor is established
 2139 within the corporation to provide a central point for
 2140 coordination of and responsibility for activities that promote
 2141 accountability, integrity, and efficiency to the policyholders
 2142 and to the taxpayers of this state. The internal auditor shall
 2143 be appointed by the board of governors, shall report to and be
 2144 under the general supervision of the board of governors, and is
 2145 not subject to supervision by an employee of the corporation.
 2146 Administrative staff and support shall be provided by the
 2147 corporation. The internal auditor shall be appointed without
 2148 regard to political affiliation. It is the duty and
 2149 responsibility of the internal auditor to:

2150 a. Provide direction for, supervise, conduct, and

2151 coordinate audits, investigations, and management reviews
 2152 relating to the programs and operations of the corporation.

2153 b. Conduct, supervise, or coordinate other activities
 2154 carried out or financed by the corporation for the purpose of
 2155 promoting efficiency in the administration of, or preventing and
 2156 detecting fraud, abuse, and mismanagement in, its programs and
 2157 operations.

2158 c. Submit final audit reports, reviews, or investigative
 2159 reports to the board of governors, the executive director, the
 2160 members of the Financial Services Commission, and the President
 2161 of the Senate and the Speaker of the House of Representatives.

2162 d. Keep the board of governors informed concerning fraud,
 2163 abuses, and internal control deficiencies relating to programs
 2164 and operations administered or financed by the corporation,
 2165 recommend corrective action, and report on the progress made in
 2166 implementing corrective action.

2167 e. Cooperate and coordinate activities with the
 2168 corporation's inspector general.

2169 2. On or before February 15, the internal auditor shall
 2170 prepare an annual report evaluating the effectiveness of the
 2171 internal controls of the corporation and providing
 2172 recommendations for corrective action, if necessary, and
 2173 summarizing the audits, reviews, and investigations conducted by
 2174 the office during the preceding fiscal year. The final report
 2175 shall be furnished to the board of governors and the executive

2176 | director, the President of the Senate, the Speaker of the House
2177 | of Representatives, and the Financial Services Commission.

2178 | (j) All records of the corporation, except as otherwise
2179 | provided by law, are subject to the record retention
2180 | requirements of s. 119.021.

2181 | (k)1. The corporation shall establish and maintain a unit
2182 | or division to investigate possible fraudulent claims by
2183 | insureds or by persons making claims for services or repairs
2184 | against policies held by insureds; or it may contract with
2185 | others to investigate possible fraudulent claims for services or
2186 | repairs against policies held by the corporation pursuant to s.
2187 | 626.9891. The corporation must comply with reporting
2188 | requirements of s. 626.9891. An employee of the corporation
2189 | shall notify the corporation's Office of the Inspector General
2190 | and the Division of Investigative and Forensic Services within
2191 | 48 hours after having information that would lead a reasonable
2192 | person to suspect that fraud may have been committed by any
2193 | employee of the corporation.

2194 | 2. The corporation shall establish a unit or division
2195 | responsible for receiving and responding to consumer complaints,
2196 | which unit or division is the sole responsibility of a senior
2197 | manager of the corporation.

2198 | (1) The office shall conduct a comprehensive market
2199 | conduct examination of the corporation every 2 years to
2200 | determine compliance with its plan of operation and internal

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2201 operations procedures. The first market conduct examination
2202 report shall be submitted to the President of the Senate and the
2203 Speaker of the House of Representatives no later than February
2204 1, 2009. Subsequent reports shall be submitted on or before
2205 February 1 every 2 years thereafter.

2206 (m) The Auditor General shall conduct an operational audit
2207 of the corporation every 3 years to evaluate management's
2208 performance in administering laws, policies, and procedures
2209 governing the operations of the corporation in an efficient and
2210 effective manner. The scope of the review shall include, but is
2211 not limited to, evaluating claims handling, customer service,
2212 take-out programs and bonuses, financing arrangements,
2213 procurement of goods and services, internal controls, and the
2214 internal audit function. The initial audit must be completed by
2215 February 1, 2009.

2216 (n)1. Rates for coverage provided by the corporation must
2217 be actuarially sound pursuant to s. 627.062 and not competitive
2218 with approved rates charged in the admitted voluntary market so
2219 that the corporation functions as a residual market mechanism to
2220 provide insurance only when insurance cannot be procured in the
2221 voluntary market, except as otherwise provided in this
2222 paragraph. The office shall provide the corporation such
2223 information as would be necessary to determine whether rates are
2224 competitive. The corporation shall file its recommended rates
2225 with the office at least annually. The corporation shall provide

2226 any additional information regarding the rates which the office
2227 requires. The office shall consider the recommendations of the
2228 board and issue a final order establishing the rates for the
2229 corporation within 45 days after the recommended rates are
2230 filed. The corporation may not pursue an administrative
2231 challenge or judicial review of the final order of the office.

2232 2. In addition to the rates otherwise determined pursuant
2233 to this paragraph, the corporation shall impose and collect an
2234 amount equal to the premium tax provided in s. 624.509 to
2235 augment the financial resources of the corporation.

2236 3. After the public hurricane loss-projection model under
2237 s. 627.06281 has been found to be accurate and reliable by the
2238 Florida Commission on Hurricane Loss Projection Methodology, the
2239 model shall be considered when establishing the windstorm
2240 portion of the corporation's rates. The corporation may use the
2241 public model results in combination with the results of private
2242 models to calculate rates for the windstorm portion of the
2243 corporation's rates. This subparagraph does not require or allow
2244 the corporation to adopt rates lower than the rates otherwise
2245 required or allowed by this paragraph.

2246 4. The corporation must make a recommended actuarially
2247 sound rate filing for each personal and commercial line of
2248 business it writes.

2249 5. Notwithstanding the board's recommended rates and the
2250 office's final order regarding the corporation's filed rates

2251 under subparagraph 1., the corporation shall annually implement
 2252 a rate increase which, except for sinkhole coverage, does not
 2253 exceed the following for any single policy issued by the
 2254 corporation, excluding coverage changes and surcharges:

- 2255 ~~a.~~ ~~Twelve percent for 2023.~~
- 2256 a.b. Thirteen percent for 2024.
- 2257 b.e. Fourteen percent for 2025.
- 2258 c.d. Fifteen percent for 2026 and all subsequent years.

2259 6. The corporation may also implement an increase to
 2260 reflect the effect on the corporation of the cash buildup factor
 2261 pursuant to s. 215.555(5)(b).

2262 7. The corporation's implementation of rates as prescribed
 2263 in subparagraphs 5. and 8. shall cease for any line of business
 2264 written by the corporation upon the corporation's implementation
 2265 of actuarially sound rates. Thereafter, the corporation shall
 2266 annually make a recommended actuarially sound rate filing that
 2267 is not competitive with approved rates in the admitted voluntary
 2268 market for each commercial and personal line of business the
 2269 corporation writes.

2270 8. The following new or renewal personal lines policies
 2271 written on or after November 1, 2023, are not subject to the
 2272 rate increase limitations in subparagraph 5., but may not be
 2273 charged more than 50 percent above, and may not be charged ~~nor~~
 2274 less than, the prior year's established rate for the
 2275 corporation:

2276 a. Policies that do not cover a primary residence;
 2277 b. New policies under which the coverage for the insured
 2278 risk, before the date of application with the corporation, was
 2279 last provided by an insurer determined by the office to be
 2280 unsound or an insurer placed in receivership under chapter 631;
 2281 or

2282 c. Subsequent renewals of those policies, including the
 2283 new policies in sub-subparagraph b., under which the coverage
 2284 for the insured risk, before the date of application with the
 2285 corporation, was last provided by an insurer determined by the
 2286 office to be unsound or an insurer placed in receivership under
 2287 chapter 631.

2288 9. As used in this paragraph, the term "primary residence"
 2289 means the dwelling that is the policyholder's primary home or is
 2290 a rental property that is the primary home of the tenant, and
 2291 which the policyholder or tenant occupies for more than 9 months
 2292 of each year.

2293 (o) If coverage in ~~an account, or~~ the Citizens account ~~if~~
 2294 ~~established by the corporation,~~ is deactivated pursuant to
 2295 paragraph (p), coverage through the corporation shall be
 2296 reactivated by order of the office only under one of the
 2297 following circumstances:

2298 1. If the market assistance plan receives a minimum of 100
 2299 applications for coverage within a 3-month period, or 200
 2300 applications for coverage within a 1-year period or less for

2301 residential coverage, unless the market assistance plan provides
 2302 a quotation from authorized ~~admitted~~ carriers at their approved
 2303 ~~filed~~ rates for at least 90 percent of such applicants. Any
 2304 market assistance plan application that is rejected because an
 2305 individual risk is so hazardous as to be uninsurable using the
 2306 criteria specified in subparagraph (c)8. shall not be included
 2307 in the minimum percentage calculation provided herein. In the
 2308 event that there is a legal or administrative challenge to a
 2309 determination by the office that the conditions of this
 2310 subparagraph have been met for eligibility for coverage in the
 2311 corporation, any eligible risk may obtain coverage during the
 2312 pendency of such challenge.

2313 2. In response to a state of emergency declared by the
 2314 Governor under s. 252.36, the office may activate coverage by
 2315 order for the period of the emergency upon a finding by the
 2316 office that the emergency significantly affects the availability
 2317 of residential property insurance.

2318 (p)1. The corporation shall file with the office quarterly
 2319 statements of financial condition, an annual statement of
 2320 financial condition, and audited financial statements in the
 2321 manner prescribed by law. In addition, the corporation shall
 2322 report to the office monthly on the types, premium, exposure,
 2323 and distribution by county of its policies in force, and shall
 2324 submit other reports as the office requires to carry out its
 2325 oversight of the corporation.

2326 2. The activities of the corporation shall be reviewed at
 2327 least annually by the office to determine whether coverage shall
 2328 be deactivated ~~in an account, or~~ in the Citizens account ~~if~~
 2329 ~~established by the corporation,~~ on the basis that the conditions
 2330 giving rise to its activation no longer exist.

2331 (q)1. The corporation shall certify to the office its
 2332 needs for annual assessments as to a particular calendar year,
 2333 and for any interim assessments that it deems to be necessary to
 2334 sustain operations as to a particular year pending the receipt
 2335 of annual assessments. Upon verification, the office shall
 2336 approve such certification, and the corporation shall levy such
 2337 annual or interim assessments. Such assessments shall be
 2338 prorated, if authority to levy exists, as provided in paragraph
 2339 (b). The corporation shall take all reasonable and prudent steps
 2340 necessary to collect the amount of assessments due from each
 2341 assessable insurer, including, if prudent, filing suit to
 2342 collect the assessments, and the office may provide such
 2343 assistance to the corporation it deems appropriate. If the
 2344 corporation is unable to collect an assessment from any
 2345 assessable insurer, the uncollected assessments shall be levied
 2346 as an additional assessment against the assessable insurers and
 2347 any assessable insurer required to pay an additional assessment
 2348 as a result of such failure to pay shall have a cause of action
 2349 against such nonpaying assessable insurer. Assessments shall be
 2350 included as an appropriate factor in the making of rates. The

2351 failure of a surplus lines agent to collect and remit any
2352 regular or emergency assessment levied by the corporation is
2353 considered to be a violation of s. 626.936 and subjects the
2354 surplus lines agent to the penalties provided in that section.

2355 2. The governing body of any unit of local government, any
2356 residents of which are insured by the corporation, may issue
2357 bonds as defined in s. 125.013 or s. 166.101 from time to time
2358 to fund an assistance program, in conjunction with the
2359 corporation, for the purpose of defraying deficits of the
2360 corporation. In order to avoid needless and indiscriminate
2361 proliferation, duplication, and fragmentation of such assistance
2362 programs, any unit of local government, any residents of which
2363 are insured by the corporation, may provide for the payment of
2364 losses, regardless of whether or not the losses occurred within
2365 or outside of the territorial jurisdiction of the local
2366 government. Revenue bonds under this subparagraph may not be
2367 issued until validated pursuant to chapter 75, unless a state of
2368 emergency is declared by executive order or proclamation of the
2369 Governor pursuant to s. 252.36 making such findings as are
2370 necessary to determine that it is in the best interests of, and
2371 necessary for, the protection of the public health, safety, and
2372 general welfare of residents of this state and declaring it an
2373 essential public purpose to permit certain municipalities or
2374 counties to issue such bonds as will permit relief to claimants
2375 and policyholders of the corporation. Any such unit of local

2376 government may enter into such contracts with the corporation
 2377 and with any other entity created pursuant to this subsection as
 2378 are necessary to carry out this paragraph. Any bonds issued
 2379 under this subparagraph shall be payable from and secured by
 2380 moneys received by the corporation from emergency assessments
 2381 under sub-subparagraph (b)3.c. ~~(b)3.e.~~, and assigned and pledged
 2382 to or on behalf of the unit of local government for the benefit
 2383 of the holders of such bonds. The funds, credit, property, and
 2384 taxing power of the state or of the unit of local government
 2385 shall not be pledged for the payment of such bonds.

2386 3.a. The corporation shall adopt one or more programs
 2387 subject to approval by the office for the reduction of both new
 2388 and renewal writings in the corporation. Beginning January 1,
 2389 2008, any program the corporation adopts for the payment of
 2390 bonuses to an insurer for each risk the insurer removes from the
 2391 corporation shall comply with s. 627.3511(2) and may not exceed
 2392 the amount referenced in s. 627.3511(2) for each risk removed.
 2393 The corporation may consider any prudent and not unfairly
 2394 discriminatory approach to reducing corporation writings, and
 2395 may adopt a credit against assessment liability or other
 2396 liability that provides an incentive for insurers to take risks
 2397 out of the corporation and to keep risks out of the corporation
 2398 by maintaining or increasing voluntary writings in counties or
 2399 areas in which corporation risks are highly concentrated and a
 2400 program to provide a formula under which an insurer voluntarily

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2401 taking risks out of the corporation by maintaining or increasing
2402 voluntary writings will be relieved wholly or partially from
2403 assessments ~~under sub-subparagraph (b) 3.a.~~ In addition, in the
2404 event policies are taken out by an authorized insurer that is an
2405 eligible surplus lines insurer, such insurer's assessable
2406 insureds may also be relieved wholly or partially from
2407 assessments. However, any "take-out bonus" or payment to an
2408 insurer must be conditioned on the property being insured for at
2409 least 5 years by the insurer, unless canceled or nonrenewed by
2410 the policyholder. If the policy is canceled or nonrenewed by the
2411 policyholder before the end of the 5-year period, the amount of
2412 the take-out bonus must be prorated for the time period the
2413 policy was insured. When the corporation enters into a
2414 contractual agreement for a take-out plan, the producing agent
2415 of record of the corporation policy is entitled to retain any
2416 unearned commission on such policy, and the insurer shall
2417 either:

2418 (I) Pay to the producing agent of record of the policy,
2419 for the first year, an amount which is the greater of the
2420 insurer's usual and customary commission for the type of policy
2421 written or a policy fee equal to the usual and customary
2422 commission of the corporation; or

2423 (II) Offer to allow the producing agent of record of the
2424 policy to continue servicing the policy for a period of not less
2425 than 1 year and offer to pay the agent the insurer's usual and

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2426 customary commission for the type of policy written. If the
2427 producing agent is unwilling or unable to accept appointment by
2428 the new insurer for any reason, including to the failure of such
2429 agent to be licensed as surplus lines agent, the new insurer
2430 shall pay the agent in accordance with sub-sub-subparagraph (I).

2431 b. Any credit or exemption from regular assessments
2432 adopted under this subparagraph shall last no longer than the 3
2433 years following the cancellation or expiration of the policy by
2434 the corporation. With the approval of the office, the board may
2435 extend such credits for an additional year if the insurer
2436 guarantees an additional year of renewability for all policies
2437 removed from the corporation, or for 2 additional years if the
2438 insurer guarantees 2 additional years of renewability for all
2439 policies so removed.

2440 c. There shall be no credit, limitation, exemption, or
2441 deferment from emergency assessments to be collected from
2442 policyholders pursuant to sub-subparagraph (b)3.c. ~~(b)3.e. or~~
2443 ~~sub-subparagraph (b)5.e.~~

2444 ~~4. The plan shall provide for the deferment, in whole or~~
2445 ~~in part, of the assessment of an assessable insurer, other than~~
2446 ~~an emergency assessment collected from policyholders pursuant to~~
2447 ~~sub-subparagraph (b)3.e. or sub-subparagraph (b)5.e., if the~~
2448 ~~office finds that payment of the assessment would endanger or~~
2449 ~~impair the solvency of the insurer. In the event an assessment~~
2450 ~~against an assessable insurer is deferred in whole or in part,~~

2451 ~~the amount by which such assessment is deferred may be assessed~~
2452 ~~against the other assessable insurers in a manner consistent~~
2453 ~~with the basis for assessments set forth in paragraph (b).~~

2454 4.5. Effective July 1, 2007, in order to evaluate the
2455 costs and benefits of approved take-out plans, if the
2456 corporation pays a bonus or other payment to an insurer for an
2457 approved take-out plan, it shall maintain a record of the
2458 address or such other identifying information on the property or
2459 risk removed in order to track if and when the property or risk
2460 is later insured by the corporation.

2461 5.6. Any policy taken out, assumed, or removed from the
2462 corporation is, as of the effective date of the take-out,
2463 assumption, or removal, direct insurance issued by the insurer
2464 and not by the corporation, even if the corporation continues to
2465 service the policies. This subparagraph applies to policies of
2466 the corporation and not policies taken out, assumed, or removed
2467 from any other entity.

2468 6.7. For a policy taken out, assumed, or removed from the
2469 corporation, the insurer may, for a period of no more than 3
2470 years, continue to use any of the corporation's policy forms or
2471 endorsements that apply to the policy taken out, removed, or
2472 assumed without obtaining approval from the office for use of
2473 such policy form or endorsement.

2474 (r) Nothing in this subsection shall be construed to
2475 preclude the issuance of residential property insurance coverage

2476 pursuant to part VIII of chapter 626.

2477 (s)1. There shall be no liability on the part of, and no
2478 cause of action of any nature shall arise against, any
2479 assessable insurer or its agents or employees, the corporation
2480 or its agents or employees, members of the board of governors or
2481 their respective designees at a board meeting, corporation
2482 committee members, or the office or its representatives, for any
2483 action taken by them in the performance of their duties or
2484 responsibilities under this subsection. Such immunity does not
2485 apply to:

2486 a. Any of the foregoing persons or entities for any
2487 willful tort;

2488 b. The corporation or its producing agents for breach of
2489 any contract or agreement pertaining to insurance coverage;

2490 c. The corporation with respect to issuance or payment of
2491 debt;

2492 d. Any assessable insurer with respect to any action to
2493 enforce an assessable insurer's obligations to the corporation
2494 under this subsection; or

2495 e. The corporation in any pending or future action for
2496 breach of contract or for benefits under a policy issued by the
2497 corporation.

2498 2. The corporation shall manage its claim employees,
2499 independent adjusters, and others who handle claims to ensure
2500 they carry out the corporation's duty to its policyholders to

2501 handle claims carefully, timely, diligently, and in good faith,
2502 balanced against the corporation's duty to the state to manage
2503 its assets responsibly to minimize its assessment potential.

2504 (t) For the purposes of s. 199.183(1), the corporation
2505 shall be considered a political subdivision of the state and
2506 shall be exempt from the corporate income tax. The premiums,
2507 assessments, investment income, and other revenue of the
2508 corporation are funds received for providing property insurance
2509 coverage as required by this subsection, paying claims for
2510 Florida citizens insured by the corporation, securing and
2511 repaying debt obligations issued by the corporation, and
2512 conducting all other activities of the corporation, and shall
2513 not be considered taxes, fees, licenses, or charges for services
2514 imposed by the Legislature on individuals, businesses, or
2515 agencies outside state government. Bonds and other debt
2516 obligations issued by or on behalf of the corporation are not to
2517 be considered "state bonds" within the meaning of s. 215.58(8).
2518 The corporation is subject to the procurement provisions of
2519 chapter 287 as provided in paragraph (e), and policies and
2520 decisions of the corporation relating to incurring debt, levying
2521 of assessments and the sale, issuance, continuation, terms and
2522 claims under corporation policies, and all services relating
2523 thereto, are not subject to the provisions of chapter 120. The
2524 corporation is not required to obtain or to hold a certificate
2525 of authority issued by the office, nor is it required to

2526 participate as a member insurer of the Florida Insurance
2527 Guaranty Association. However, the corporation is required to
2528 pay, in the same manner as an authorized insurer, assessments
2529 levied by the Florida Insurance Guaranty Association. It is the
2530 intent of the Legislature that the tax exemptions provided in
2531 this paragraph will augment the financial resources of the
2532 corporation to better enable the corporation to fulfill its
2533 public purposes. Any debt obligations issued by the corporation,
2534 their transfer, and the income therefrom, including any profit
2535 made on the sale thereof, shall at all times be free from
2536 taxation of every kind by the state and any political
2537 subdivision or local unit or other instrumentality thereof;
2538 however, this exemption does not apply to any tax imposed by
2539 chapter 220 on interest, income, or profits on debt obligations
2540 owned by corporations other than the corporation.

2541 (u) Upon a determination by the office that the conditions
2542 giving rise to the establishment and activation of the
2543 corporation no longer exist, the corporation is dissolved. Upon
2544 dissolution, the assets of the corporation shall be applied
2545 first to pay all debts, liabilities, and obligations of the
2546 corporation, including the establishment of reasonable reserves
2547 for any contingent liabilities or obligations, and all remaining
2548 assets of the corporation shall become property of the state and
2549 shall be deposited in the Florida Hurricane Catastrophe Fund.
2550 However, no dissolution shall take effect as long as the

2551 corporation has bonds or other financial obligations outstanding
 2552 unless adequate provision has been made for the payment of the
 2553 bonds or other financial obligations pursuant to the documents
 2554 authorizing the issuance of the bonds or other financial
 2555 obligations.

2556 (v)1. Effective July 1, 2002, policies of the Residential
 2557 Property and Casualty Joint Underwriting Association become
 2558 policies of the corporation. All obligations, rights, assets and
 2559 liabilities of the association, including bonds, note and debt
 2560 obligations, and the financing documents pertaining to them
 2561 become those of the corporation as of July 1, 2002. The
 2562 corporation is not required to issue endorsements or
 2563 certificates of assumption to insureds during the remaining term
 2564 of in-force transferred policies.

2565 2. Effective July 1, 2002, policies of the Florida
 2566 Windstorm Underwriting Association are transferred to the
 2567 corporation and become policies of the corporation. All
 2568 obligations, rights, assets, and liabilities of the association,
 2569 including bonds, note and debt obligations, and the financing
 2570 documents pertaining to them are transferred to and assumed by
 2571 the corporation on July 1, 2002. The corporation is not required
 2572 to issue endorsements or certificates of assumption to insureds
 2573 during the remaining term of in-force transferred policies.

2574 3. The Florida Windstorm Underwriting Association and the
 2575 Residential Property and Casualty Joint Underwriting Association

2576 shall take all actions necessary to further evidence the
2577 transfers and provide the documents and instruments of further
2578 assurance as may reasonably be requested by the corporation for
2579 that purpose. The corporation shall execute assumptions and
2580 instruments as the trustees or other parties to the financing
2581 documents of the Florida Windstorm Underwriting Association or
2582 the Residential Property and Casualty Joint Underwriting
2583 Association may reasonably request to further evidence the
2584 transfers and assumptions, which transfers and assumptions,
2585 however, are effective on the date provided under this paragraph
2586 whether or not, and regardless of the date on which, the
2587 assumptions or instruments are executed by the corporation.
2588 ~~Subject to the relevant financing documents pertaining to their~~
2589 ~~outstanding bonds, notes, indebtedness, or other financing~~
2590 ~~obligations, the moneys, investments, receivables, choses in~~
2591 ~~action, and other intangibles of the Florida Windstorm~~
2592 ~~Underwriting Association shall be credited to the coastal~~
2593 ~~account of the corporation, and those of the personal lines~~
2594 ~~residential coverage account and the commercial lines~~
2595 ~~residential coverage account of the Residential Property and~~
2596 ~~Casualty Joint Underwriting Association shall be credited to the~~
2597 ~~personal lines account and the commercial lines account,~~
2598 ~~respectively, of the corporation.~~

2599 4. Effective July 1, 2002, a new applicant for property
2600 insurance coverage who would otherwise have been eligible for

2601 coverage in the Florida Windstorm Underwriting Association is
 2602 eligible for coverage from the corporation as provided in this
 2603 subsection.

2604 5. The transfer of all policies, obligations, rights,
 2605 assets, and liabilities from the Florida Windstorm Underwriting
 2606 Association to the corporation and the renaming of the
 2607 Residential Property and Casualty Joint Underwriting Association
 2608 as the corporation does not affect the coverage with respect to
 2609 covered policies as defined in s. 215.555(2)(c) provided to
 2610 these entities by the Florida Hurricane Catastrophe Fund. ~~The~~
 2611 ~~coverage provided by the fund to the Florida Windstorm~~
 2612 ~~Underwriting Association based on its exposures as of June 30,~~
 2613 ~~2002, and each June 30 thereafter, unless the corporation has~~
 2614 ~~established the Citizens account, shall be redesignated as~~
 2615 ~~coverage for the coastal account of the corporation.~~
 2616 ~~Notwithstanding any other provision of law, the coverage~~
 2617 ~~provided by the fund to the Residential Property and Casualty~~
 2618 ~~Joint Underwriting Association based on its exposures as of June~~
 2619 ~~30, 2002, and each June 30 thereafter, unless the corporation~~
 2620 ~~has established the Citizens account, shall be transferred to~~
 2621 ~~the personal lines account and the commercial lines account of~~
 2622 ~~the corporation. Notwithstanding any other provision of law, the~~
 2623 ~~coastal account, unless the corporation has established the~~
 2624 ~~Citizens account, shall be treated, for all Florida Hurricane~~
 2625 ~~Catastrophe Fund purposes, as if it were a separate~~

2626 ~~participating insurer with its own exposures, reimbursement~~
 2627 ~~premium, and loss reimbursement. Likewise, the personal lines~~
 2628 ~~and commercial lines accounts, unless the corporation has~~
 2629 ~~established the Citizens account, shall be viewed together, for~~
 2630 ~~all fund purposes, as if the two accounts were one and represent~~
 2631 ~~a single, separate participating insurer with its own exposures,~~
 2632 ~~reimbursement premium, and loss reimbursement.~~ The coverage
 2633 provided by the fund to the corporation shall constitute and
 2634 operate as a full transfer of coverage from the Florida
 2635 Windstorm Underwriting Association and Residential Property and
 2636 Casualty Joint Underwriting Association to the corporation.

2637 (w) Notwithstanding any other provision of law:

2638 1. The pledge or sale of, the lien upon, and the security
 2639 interest in any rights, revenues, or other assets of the
 2640 corporation created or purported to be created pursuant to any
 2641 financing documents to secure any bonds or other indebtedness of
 2642 the corporation shall be and remain valid and enforceable,
 2643 notwithstanding the commencement of and during the continuation
 2644 of, and after, any rehabilitation, insolvency, liquidation,
 2645 bankruptcy, receivership, conservatorship, reorganization, or
 2646 similar proceeding against the corporation under the laws of
 2647 this state.

2648 2. The proceeding does not relieve the corporation of its
 2649 obligation, or otherwise affect its ability to perform its
 2650 obligation, to continue to collect, or levy and collect,

2651 assessments, policyholder surcharges or other surcharges ~~under~~
2652 ~~sub-subparagraph (b) 3. j.~~, or any other rights, revenues, or
2653 other assets of the corporation pledged pursuant to any
2654 financing documents.

2655 3. Each such pledge or sale of, lien upon, and security
2656 interest in, including the priority of such pledge, lien, or
2657 security interest, any such assessments, policyholder surcharges
2658 or other surcharges, or other rights, revenues, or other assets
2659 which are collected, or levied and collected, after the
2660 commencement of and during the pendency of, or after, any such
2661 proceeding shall continue unaffected by such proceeding. As used
2662 in this subsection, the term "financing documents" means any
2663 agreement or agreements, instrument or instruments, or other
2664 document or documents now existing or hereafter created
2665 evidencing any bonds or other indebtedness of the corporation or
2666 pursuant to which any such bonds or other indebtedness has been
2667 or may be issued and pursuant to which any rights, revenues, or
2668 other assets of the corporation are pledged or sold to secure
2669 the repayment of such bonds or indebtedness, together with the
2670 payment of interest on such bonds or such indebtedness, or the
2671 payment of any other obligation or financial product, as defined
2672 in the plan of operation of the corporation related to such
2673 bonds or indebtedness.

2674 4. Any such pledge or sale of assessments, revenues,
2675 contract rights, or other rights or assets of the corporation

2676 shall constitute a lien and security interest, or sale, as the
2677 case may be, that is immediately effective and attaches to such
2678 assessments, revenues, or contract rights or other rights or
2679 assets, whether or not imposed or collected at the time the
2680 pledge or sale is made. Any such pledge or sale is effective,
2681 valid, binding, and enforceable against the corporation or other
2682 entity making such pledge or sale, and valid and binding against
2683 and superior to any competing claims or obligations owed to any
2684 other person or entity, including policyholders in this state,
2685 asserting rights in any such assessments, revenues, or contract
2686 rights or other rights or assets to the extent set forth in and
2687 in accordance with the terms of the pledge or sale contained in
2688 the applicable financing documents, whether or not any such
2689 person or entity has notice of such pledge or sale and without
2690 the need for any physical delivery, recordation, filing, or
2691 other action.

2692 5. As long as the corporation has any bonds outstanding,
2693 the corporation may not file a voluntary petition under chapter
2694 9 of the federal Bankruptcy Code or such corresponding chapter
2695 or sections as may be in effect, from time to time, and a public
2696 officer or any organization, entity, or other person may not
2697 authorize the corporation to be or become a debtor under chapter
2698 9 of the federal Bankruptcy Code or such corresponding chapter
2699 or sections as may be in effect, from time to time, during any
2700 such period.

2701 6. If ordered by a court of competent jurisdiction, the
2702 corporation may assume policies or otherwise provide coverage
2703 for policyholders of an insurer placed in liquidation under
2704 chapter 631, under such forms, rates, terms, and conditions as
2705 the corporation deems appropriate, subject to approval by the
2706 office.

2707 (x)1. The following records of the corporation are
2708 confidential and exempt from the provisions of s. 119.07(1) and
2709 s. 24(a), Art. I of the State Constitution:

2710 a. Underwriting files, except that a policyholder or an
2711 applicant shall have access to his or her own underwriting
2712 files. Confidential and exempt underwriting file records may
2713 also be released to other governmental agencies upon written
2714 request and demonstration of need; such records held by the
2715 receiving agency remain confidential and exempt as provided
2716 herein.

2717 b. Claims files, until termination of all litigation and
2718 settlement of all claims arising out of the same incident,
2719 although portions of the claims files may remain exempt, as
2720 otherwise provided by law. Confidential and exempt claims file
2721 records may be released to other governmental agencies upon
2722 written request and demonstration of need; such records held by
2723 the receiving agency remain confidential and exempt as provided
2724 herein.

2725 c. Records obtained or generated by an internal auditor

2726 pursuant to a routine audit, until the audit is completed, or if
2727 the audit is conducted as part of an investigation, until the
2728 investigation is closed or ceases to be active. An investigation
2729 is considered "active" while the investigation is being
2730 conducted with a reasonable, good faith belief that it could
2731 lead to the filing of administrative, civil, or criminal
2732 proceedings.

2733 d. Matters reasonably encompassed in privileged attorney-
2734 client communications.

2735 e. Proprietary information licensed to the corporation
2736 under contract and the contract provides for the confidentiality
2737 of such proprietary information.

2738 f. All information relating to the medical condition or
2739 medical status of a corporation employee which is not relevant
2740 to the employee's capacity to perform his or her duties, except
2741 as otherwise provided in this paragraph. Information that is
2742 exempt shall include, but is not limited to, information
2743 relating to workers' compensation, insurance benefits, and
2744 retirement or disability benefits.

2745 g. Upon an employee's entrance into the employee
2746 assistance program, a program to assist any employee who has a
2747 behavioral or medical disorder, substance abuse problem, or
2748 emotional difficulty that affects the employee's job
2749 performance, all records relative to that participation shall be
2750 confidential and exempt from the provisions of s. 119.07(1) and

2751 s. 24(a), Art. I of the State Constitution, except as otherwise
2752 provided in s. 112.0455(11).

2753 h. Information relating to negotiations for financing,
2754 reinsurance, depopulation, or contractual services, until the
2755 conclusion of the negotiations.

2756 i. Minutes of closed meetings regarding underwriting
2757 files, and minutes of closed meetings regarding an open claims
2758 file until termination of all litigation and settlement of all
2759 claims with regard to that claim, except that information
2760 otherwise confidential or exempt by law shall be redacted.

2761 2. If an authorized insurer is considering underwriting a
2762 risk insured by the corporation, relevant underwriting files and
2763 confidential claims files may be released to the insurer
2764 provided the insurer agrees in writing, notarized and under
2765 oath, to maintain the confidentiality of such files. If a file
2766 is transferred to an insurer, that file is no longer a public
2767 record because it is not held by an agency subject to the
2768 provisions of the public records law. Underwriting files and
2769 confidential claims files may also be released to staff and the
2770 board of governors of the market assistance plan established
2771 pursuant to s. 627.3515, who must retain the confidentiality of
2772 such files, except such files may be released to authorized
2773 insurers that are considering assuming the risks to which the
2774 files apply, provided the insurer agrees in writing, notarized
2775 and under oath, to maintain the confidentiality of such files.

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2776 Finally, the corporation or the board or staff of the market
2777 assistance plan may make the following information obtained from
2778 underwriting files and confidential claims files available to an
2779 entity that has obtained a permit to become an authorized
2780 insurer, a reinsurer that may provide reinsurance under s.
2781 624.610, a licensed reinsurance broker, a licensed rating
2782 organization, a modeling company, a licensed surplus lines
2783 agent, or a licensed general lines insurance agent: name,
2784 address, and telephone number of the residential property owner
2785 or insured; location of the risk; rating information; loss
2786 history; and policy type. The receiving person must retain the
2787 confidentiality of the information received and may use the
2788 information only for the purposes of developing a take-out plan
2789 or a rating plan to be submitted to the office for approval or
2790 otherwise analyzing the underwriting of a risk or risks insured
2791 by the corporation on behalf of the private insurance market. A
2792 licensed surplus lines agent or a licensed general lines
2793 insurance agent may not use such information for the direct
2794 solicitation of policyholders.

2795 3. A policyholder who has filed suit against the
2796 corporation has the right to discover the contents of his or her
2797 own claims file to the same extent that discovery of such
2798 contents would be available from a private insurer in litigation
2799 as provided by the Florida Rules of Civil Procedure, the Florida
2800 Evidence Code, and other applicable law. Pursuant to subpoena, a

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2801 third party has the right to discover the contents of an
2802 insured's or applicant's underwriting or claims file to the same
2803 extent that discovery of such contents would be available from a
2804 private insurer by subpoena as provided by the Florida Rules of
2805 Civil Procedure, the Florida Evidence Code, and other applicable
2806 law, and subject to any confidentiality protections requested by
2807 the corporation and agreed to by the seeking party or ordered by
2808 the court. The corporation may release confidential underwriting
2809 and claims file contents and information as it deems necessary
2810 and appropriate to underwrite or service insurance policies and
2811 claims, subject to any confidentiality protections deemed
2812 necessary and appropriate by the corporation.

2813 4. Portions of meetings of the corporation are exempt from
2814 the provisions of s. 286.011 and s. 24(b), Art. I of the State
2815 Constitution wherein confidential underwriting files or
2816 confidential open claims files are discussed. All portions of
2817 corporation meetings which are closed to the public shall be
2818 recorded by a court reporter. The court reporter shall record
2819 the times of commencement and termination of the meeting, all
2820 discussion and proceedings, the names of all persons present at
2821 any time, and the names of all persons speaking. No portion of
2822 any closed meeting shall be off the record. Subject to the
2823 provisions hereof and s. 119.07(1)(d)-(f), the court reporter's
2824 notes of any closed meeting shall be retained by the corporation
2825 for a minimum of 5 years. A copy of the transcript, less any

2826 exempt matters, of any closed meeting wherein claims are
 2827 discussed shall become public as to individual claims after
 2828 settlement of the claim.

2829 (y) It is the intent of the Legislature that the
 2830 amendments to this subsection enacted in 2002 should, over time,
 2831 reduce the probable maximum windstorm losses in the residual
 2832 markets and the potential assessments to be levied on property
 2833 insurers and policyholders statewide.

2834 (z) In enacting the provisions of this section, the
 2835 Legislature recognizes that both the Florida Windstorm
 2836 Underwriting Association and the Residential Property and
 2837 Casualty Joint Underwriting Association have entered into
 2838 financing arrangements that obligate each entity to service its
 2839 debts and maintain the capacity to repay funds secured under
 2840 these financing arrangements. It is the intent of the
 2841 Legislature that nothing in this section be construed to
 2842 compromise, diminish, or interfere with the rights of creditors
 2843 under such financing arrangements. It is further the intent of
 2844 the Legislature to preserve the obligations of the Florida
 2845 Windstorm Underwriting Association and Residential Property and
 2846 Casualty Joint Underwriting Association with regard to
 2847 outstanding financing arrangements, with such obligations
 2848 passing entirely and unchanged to the corporation and,
 2849 specifically, to the Citizens ~~applicable~~ account of the
 2850 corporation. So long as any bonds, notes, indebtedness, or other

2851 financing obligations of the Florida Windstorm Underwriting
 2852 Association or the Residential Property and Casualty Joint
 2853 Underwriting Association are outstanding, under the terms of the
 2854 financing documents pertaining to them, the governing board of
 2855 the corporation shall have and shall exercise the authority to
 2856 levy, charge, collect, and receive all premiums, assessments,
 2857 surcharges, charges, revenues, and receipts that the
 2858 associations had authority to levy, charge, collect, or receive
 2859 under the provisions of subsection (2) and this subsection,
 2860 respectively, as they existed on January 1, 2002, to provide
 2861 moneys, without exercise of the authority provided by this
 2862 subsection, in at least the amounts, and by the times, as would
 2863 be provided under those former provisions of subsection (2) or
 2864 this subsection, respectively, so that the value, amount, and
 2865 collectability of any assets, revenues, or revenue source
 2866 pledged or committed to, or any lien thereon securing such
 2867 outstanding bonds, notes, indebtedness, or other financing
 2868 obligations will not be diminished, impaired, or adversely
 2869 affected by the amendments made by this act and to permit
 2870 compliance with all provisions of financing documents pertaining
 2871 to such bonds, notes, indebtedness, or other financing
 2872 obligations, or the security or credit enhancement for them, and
 2873 any reference in this subsection to bonds, notes, indebtedness,
 2874 financing obligations, or similar obligations, of the
 2875 corporation shall include like instruments or contracts of the

2876 Florida Windstorm Underwriting Association and the Residential
 2877 Property and Casualty Joint Underwriting Association to the
 2878 extent not inconsistent with the provisions of the financing
 2879 documents pertaining to them.

2880 (aa) Except as otherwise provided in this paragraph, the
 2881 corporation shall require the securing and maintaining of flood
 2882 insurance as a condition of coverage of a personal lines
 2883 residential risk. The insured or applicant must execute a form
 2884 approved by the office affirming that flood insurance is not
 2885 provided by the corporation and that if flood insurance is not
 2886 secured by the applicant or insured from an insurer other than
 2887 the corporation and in addition to coverage by the corporation,
 2888 the risk will not be eligible for coverage by the corporation.
 2889 The corporation may deny coverage of a personal lines
 2890 residential risk to an applicant or insured who refuses to
 2891 secure and maintain flood insurance. The requirement to purchase
 2892 flood insurance shall be implemented as follows:

2893 1. Except as provided in subparagraphs 2. and 3., all
 2894 personal lines residential policyholders must have flood
 2895 coverage in place for policies effective on or after:

2896 a. January 1, 2024, for a structure that has a dwelling
 2897 replacement cost of \$600,000 or more.

2898 b. January 1, 2025, for a structure that has a dwelling
 2899 replacement cost of \$500,000 or more.

2900 c. January 1, 2026, for a structure that has a dwelling

2901 replacement cost of \$400,000 or more.

2902 d. January 1, 2027, for all other personal lines
 2903 residential property insured by the corporation.

2904 2. All personal lines residential policyholders whose
 2905 property insured by the corporation is located within the
 2906 special flood hazard area defined by the Federal Emergency
 2907 Management Agency must have flood coverage in place:

2908 a. At the time of initial policy issuance for all new
 2909 personal lines residential policies issued by the corporation on
 2910 or after April 1, 2023.

2911 b. By the time of the policy renewal for all personal
 2912 lines residential policies renewing on or after July 1, 2023.

2913 3. Policyholders are not required to purchase flood
 2914 insurance as a condition for maintaining the following policies
 2915 issued by the corporation:

2916 a. Policies that do not provide coverage for the peril of
 2917 wind.

2918 b. Policies that provide coverage under a condominium unit
 2919 owners form.

2920
 2921 The flood insurance required under this paragraph must meet, at
 2922 a minimum, the coverage available from the National Flood
 2923 Insurance Program or the requirements of subparagraphs s.
 2924 627.715(1) (a)1., 2., and 3.

2925 (bb) A salaried employee of the corporation who performs

2926 policy administration services subsequent to the effectuation of
 2927 a corporation policy is not required to be licensed as an agent
 2928 under the provisions of s. 626.112.

2929 (cc) There shall be no liability on the part of, and no
 2930 cause of action of any nature shall arise against, producing
 2931 agents of record of the corporation or employees of such agents
 2932 for insolvency of any take-out insurer.

2933 (dd) The assets of the corporation may be invested and
 2934 managed by the State Board of Administration.

2935 (ee) The office may establish a pilot program to offer
 2936 optional sinkhole coverage in one or more counties or other
 2937 territories of the corporation for the purpose of implementing
 2938 s. 627.706, as amended by s. 30, chapter 2007-1, Laws of
 2939 Florida. Under the pilot program, the corporation is not
 2940 required to issue a notice of nonrenewal to exclude sinkhole
 2941 coverage upon the renewal of existing policies, but may exclude
 2942 such coverage using a notice of coverage change.

2943 (ff) In establishing replacement costs for coverage on a
 2944 dwelling insured by the corporation, the corporation must accept
 2945 a valuation from any of the following sources and must use the
 2946 lowest valuation as the insured value of the dwelling, excluding
 2947 land value, provided the valuation was completed within the 12
 2948 months before the application or renewal date of coverage:

2949 1. A replacement cost valuation software that is
 2950 specifically designed for use in establishing insurance

2951 replacement costs and that includes an itemized calculation of
2952 the cost of reconstruction;

2953 2. A replacement cost valuation prepared by a certified or
2954 licensed real estate appraiser under part II of chapter 475 that
2955 is specifically formulated to establish insurance replacement
2956 cost, rather than market value, and which includes an itemized
2957 calculation of the cost of reconstruction; or

2958 3. A replacement cost valuation prepared by a general,
2959 building, or residential contractor licensed under s. 489.113,
2960 or a professional engineer licensed under s. 471.015, which
2961 includes an itemized calculation of the total price of
2962 reconstruction.

2963 (gg) The Office of Inspector General is established within
2964 the corporation to provide a central point for coordination of
2965 and responsibility for activities that promote accountability,
2966 integrity, and efficiency. The office shall be headed by an
2967 inspector general, which is a senior management position that
2968 involves planning, coordinating, and performing activities
2969 assigned to and assumed by the inspector general for the
2970 corporation.

2971 1. The inspector general shall be appointed by the
2972 Financial Services Commission and may only be removed from
2973 office by the commission. The inspector general shall be
2974 appointed without regard to political affiliation.

2975 a. At a minimum, the inspector general must possess a

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2976 bachelor's degree from an accredited college or university and 8
2977 years of professional experience related to the duties of an
2978 inspector general as described in this paragraph, of which 5
2979 years must have been at a supervisory level.

2980 b. The inspector general shall report to, and be under the
2981 supervision of, the chair of the board of governors. The
2982 executive director or corporation staff may not prevent or
2983 prohibit the inspector general from initiating, carrying out, or
2984 completing any audit, review, evaluation, study, or
2985 investigation.

2986 2. The inspector general shall initiate, direct,
2987 coordinate, participate in, and perform audits, reviews,
2988 evaluations, studies, and investigations designed to assess
2989 management practices; compliance with laws, rules, and policies;
2990 and program effectiveness and efficiency. This includes:

2991 a. Conducting internal examinations; investigating
2992 allegations of fraud, waste, abuse, malfeasance, mismanagement,
2993 employee misconduct, or violations of corporation policies; and
2994 conducting any other investigations as directed by the Financial
2995 Services Commission or as independently determined.

2996 b. Evaluating and recommending actions regarding security,
2997 the ethical behavior of personnel and vendors, and compliance
2998 with rules, laws, policies, and personnel matters; and rendering
2999 ethics opinions.

3000 c. Evaluating personnel and administrative policy

3001 compliance, management and operational matters, and human
3002 resources-related matters.

3003 d. Evaluating the application of a corporation code of
3004 ethics, providing reviews and recommendations on the design and
3005 content of ethics-related policy training courses, educating
3006 employees on the code and on appropriate conduct, and checking
3007 for compliance.

3008 e. Evaluating the activities of the senior management team
3009 and management's compliance with recommended solutions.

3010 f. Cooperating and coordinating activities with the chief
3011 of internal audit.

3012 g. Maintaining records of investigations and discipline in
3013 accordance with established policies, or as otherwise required.

3014 h. Supervising and directing the tasks and assignments of
3015 the staff assigned to assist with the inspector general's
3016 projects, including regular review and feedback regarding work
3017 in progress and providing recommendations regarding relevant
3018 training and staff development activities.

3019 i. Directing, planning, preparing, and presenting interim
3020 and final reports and oral briefings which communicate the
3021 results of studies, reviews, and investigations.

3022 j. Providing the executive director with independent and
3023 objective assessments of programs and activities.

3024 k. Completing special projects, assignments, and other
3025 duties as requested by the Financial Services Commission.

3026 1. Reporting expeditiously to the Department of Law
 3027 Enforcement or other law enforcement agencies, as appropriate,
 3028 whenever the inspector general has reasonable grounds to believe
 3029 there has been a violation of criminal law.

3030 (hh) The corporation shall prepare a report for each
 3031 calendar year outlining both the statewide average and county-
 3032 specific details of the loss ratio attributable to losses that
 3033 are not catastrophic losses for residential coverage provided by
 3034 the corporation, which information must be presented to the
 3035 office and available for public inspection on the Internet
 3036 website of the corporation by March 1 of the following calendar
 3037 year.

3038 (ii) The corporation shall revise the programs adopted
 3039 pursuant to sub-subparagraph (q)3.a. for personal lines
 3040 residential policies to maximize policyholder options and
 3041 encourage increased participation by insurers and agents. After
 3042 January 1, 2017, a policy may not be taken out of the
 3043 corporation unless the provisions of this paragraph are met.

3044 1. The corporation must publish a periodic schedule of
 3045 cycles during which an insurer may identify, and notify the
 3046 corporation of, policies that the insurer is requesting to take
 3047 out. A request must include a description of the coverage
 3048 offered and an estimated premium and must be submitted to the
 3049 corporation in a form and manner prescribed by the corporation.

3050 2. The corporation must maintain and make available to the

3051 agent of record a consolidated list of all insurers requesting
3052 to take out a policy. The list must include a description of the
3053 coverage offered and the estimated premium for each take-out
3054 request.

3055 3. If a policyholder receives a take-out offer from an
3056 authorized insurer, the risk is no longer eligible for coverage
3057 with the corporation unless the premium for coverage from the
3058 authorized insurer is more than 20 percent greater than the
3059 renewal premium for comparable coverage from the corporation
3060 pursuant to sub-subparagraph (c)5.c. This subparagraph applies
3061 to take-out offers that are part of an application to
3062 participate in depopulation submitted to the office on or after
3063 January 1, 2023. However, notwithstanding any other provision of
3064 law, this sub-subparagraph does not apply to a policy that does
3065 not cover a primary residence.

3066 4. The corporation must provide written notice to the
3067 policyholder and the agent of record regarding all insurers
3068 requesting to take out the policy. The notice must be in a
3069 format prescribed by the corporation and include, for each take-
3070 out offer:

- 3071 a. The amount of the estimated premium;
3072 b. A description of the coverage; and
3073 c. A comparison of the estimated premium and coverage
3074 offered by the insurer to the estimated premium and coverage
3075 provided by the corporation.

3076 (jj) The corporation's budget allocations for the
 3077 compensation of all corporation employees and any proposed raise
 3078 for an individual employee exceeding 10 percent of that
 3079 employee's current salary must be approved by the board of
 3080 governors. The corporation must have an overall employee
 3081 compensation plan approved by the board of governors.

3082 (kk) A corporation policyholder making a claim for water
 3083 damage against the corporation has the burden of proving that
 3084 the damage was not caused by flooding.

3085 (ll) The corporation may share its claims data with the
 3086 National Insurance Crime Bureau, provided that the National
 3087 Insurance Crime Bureau agrees to maintain the confidentiality of
 3088 such documents as otherwise provided for in paragraph (x).

3089 (mm)~~(ll)~~1. In addition to any other method of alternative
 3090 dispute resolution authorized by state law, the corporation may
 3091 adopt policy forms that provide for the resolution of disputes
 3092 regarding its claim determinations, including disputes regarding
 3093 coverage for, or the scope and value of, a claim, in a
 3094 proceeding before the Division of Administrative Hearings. Any
 3095 such policies are not subject to s. 627.70154. All proceedings
 3096 in the Division of Administrative Hearings pursuant to such
 3097 policies are subject to ss. 57.105 and 768.79 as if filed in the
 3098 courts of this state and are not considered chapter 120
 3099 administrative proceedings. Rule 1.442, Florida Rules of Civil
 3100 Procedure, applies to any offer served pursuant to s. 768.79,

3101 | except that, notwithstanding any provision in Rule 1.442,
 3102 | Florida Rules of Civil Procedure, to the contrary, an offer
 3103 | shall not be served earlier than 10 days after filing the
 3104 | request for hearing with the Division of Administrative Hearings
 3105 | and shall not be served later than 10 days before the date set
 3106 | for the final hearing. The administrative law judge in such
 3107 | proceedings shall award attorney fees and other relief pursuant
 3108 | to ss. 57.105 and 768.79. The corporation may not seek, and the
 3109 | office may not approve, a maximum hourly rate for attorney fees.

3110 | 2. The corporation may contract with the division to
 3111 | conduct proceedings to resolve disputes regarding its claim
 3112 | determinations as may be provided for in the applicable policies
 3113 | of insurance.

3114 | ~~(nn)~~ The corporation may not determine that a risk is
 3115 | ineligible for coverage with the corporation solely because such
 3116 | risk has unrepaired damage caused by a covered loss that is the
 3117 | subject of a claim that has been filed with the Florida
 3118 | Insurance Guaranty Association. This paragraph applies to a risk
 3119 | until the earlier of 24 months after the date the Florida
 3120 | Insurance Guaranty Association began servicing such claim or the
 3121 | Florida Insurance Guaranty Association closes the claim.

3122 | (7) TRADEMARKS, COPYRIGHTS, OR PATENTS.—Notwithstanding
 3123 | any other provision of law to the contrary, the corporation may,
 3124 | in its own name:

3125 | (a) Perform all things necessary to secure letters of

3126 patent, copyrights, or trademarks on any work products and
 3127 enforce its rights therein.

3128 (b) License, lease, assign, or otherwise give written
 3129 consent to any person, firm, or corporation for the manufacture
 3130 or use thereof, on a royalty basis or for such other
 3131 consideration as the corporation deems proper.

3132 (c) Take any action necessary, including legal action, to
 3133 protect the manufacture or use thereof against improper or
 3134 unlawful use or infringement.

3135 (d) Enforce the collection of any sums due the corporation
 3136 for the manufacture or use thereof by any other party.

3137 (e) Sell any of the manufacture or use thereof and execute
 3138 all instruments necessary to consummate any such sale.

3139 (f) Do all other acts necessary and proper for the
 3140 execution of powers and duties conferred upon the corporation in
 3141 order to administer this paragraph.

3142 Section 2. Subsections (3) and (5) and paragraphs (d),
 3143 (e), and (f) of subsection (6) of section 627.3511, Florida
 3144 Statutes, are amended to read:

3145 627.3511 Depopulation of Citizens Property Insurance
 3146 Corporation.—

3147 (3) EXEMPTION FROM DEFICIT ASSESSMENTS.—

3148 ~~(a) The calculation of an insurer's assessment liability~~
 3149 ~~under s. 627.351(6)(b)3.a. shall, for an insurer that in any~~
 3150 ~~calendar year removes 50,000 or more risks from the Citizens~~

3151 ~~Property Insurance Corporation, either by issuance of a policy~~
3152 ~~upon expiration or cancellation of the corporation policy or by~~
3153 ~~assumption of the corporation's obligations with respect to in-~~
3154 ~~force policies, exclude such removed policies for the succeeding~~
3155 ~~3 years, as follows:~~

3156 ~~1. In the first year following removal of the risks, the~~
3157 ~~risks are excluded from the calculation to the extent of 100~~
3158 ~~percent.~~

3159 ~~2. In the second year following removal of the risks, the~~
3160 ~~risks are excluded from the calculation to the extent of 75~~
3161 ~~percent.~~

3162 ~~3. In the third year following removal of the risks, the~~
3163 ~~risks are excluded from the calculation to the extent of 50~~
3164 ~~percent.~~

3165
3166 ~~If the removal of risks is accomplished through assumption of~~
3167 ~~obligations with respect to in-force policies, the corporation~~
3168 ~~shall pay to the assuming insurer all unearned premium with~~
3169 ~~respect to such policies less any policy acquisition costs~~
3170 ~~agreed to by the corporation and assuming insurer. The term~~
3171 ~~"policy acquisition costs" is defined as costs of issuance of~~
3172 ~~the policy by the corporation which includes agent commissions,~~
3173 ~~servicing company fees, and premium tax. This paragraph does not~~
3174 ~~apply to an insurer that, at any time within 5 years before~~
3175 ~~removing the risks, had a market share in excess of 0.1 percent.~~

3176 ~~of the statewide aggregate gross direct written premium for any~~
 3177 ~~line of property insurance, or to an affiliate of such an~~
 3178 ~~insurer. This paragraph does not apply unless either at least 40~~
 3179 ~~percent of the risks removed from the corporation are located in~~
 3180 ~~Miami-Dade, Broward, and Palm Beach Counties, or at least 30~~
 3181 ~~percent of the risks removed from the corporation are located in~~
 3182 ~~such counties and an additional 50 percent of the risks removed~~
 3183 ~~from the corporation are located in other coastal counties.~~

3184 ~~(b) An insurer that first wrote personal lines residential~~
 3185 ~~property coverage in this state on or after July 1, 1994, is~~
 3186 ~~exempt from regular deficit assessments imposed pursuant to s.~~
 3187 ~~627.351(6)(b)3.a., but not emergency assessments collected from~~
 3188 ~~policyholders pursuant to s. 627.351(6)(b)3.e., of the Citizens~~
 3189 ~~Property Insurance Corporation until the earlier of the~~
 3190 ~~following:~~

3191 ~~1. The end of the calendar year in which it first wrote~~
 3192 ~~0.5 percent or more of the statewide aggregate direct written~~
 3193 ~~premium for any line of residential property coverage; or~~

3194 ~~2. December 31, 1997, or December 31 of the third year in~~
 3195 ~~which it wrote such coverage in this state, whichever is later.~~

3196 ~~(c) Other than an insurer that is exempt under paragraph~~
 3197 ~~(b), an insurer that in any calendar year increases its total~~
 3198 ~~structure exposure subject to wind coverage by 25 percent or~~
 3199 ~~more over its exposure for the preceding calendar year is, with~~
 3200 ~~respect to that year, exempt from deficit assessments imposed~~

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3201 ~~pursuant to s. 627.351(6)(b)3.a., but not emergency assessments~~
3202 ~~collected from policyholders pursuant to s. 627.351(6)(b)3.e.,~~
3203 ~~of the Citizens Property Insurance Corporation attributable to~~
3204 ~~such increase in exposure.~~

3205 ~~(d)~~ Any exemption or credit from regular assessments
3206 authorized by this section shall last no longer than 3 years
3207 following the cancellation or expiration of the policy by the
3208 corporation. With the approval of the office, the board may
3209 extend such credits for an additional year if the insurer
3210 guarantees an additional year of renewability for all policies
3211 removed from the corporation, or for 2 additional years if the
3212 insurer guarantees 2 additional years of renewability for all
3213 policies so removed.

3214 (5) APPLICABILITY.—

3215 ~~(a)~~ The take-out bonus provided by subsection (2) applies
3216 ~~and the exemption from assessment provided by paragraph (3)(a)~~
3217 ~~apply~~ only if the corporation policy is replaced by a standard
3218 policy including wind coverage or, if consistent with the
3219 insurer's underwriting rules filed with the office, a basic
3220 policy including wind coverage; however, for risks located in
3221 areas where coverage through the coastal account of the
3222 corporation is available, the replacement policy need not
3223 provide wind coverage. The insurer must renew the replacement
3224 policy at approved rates on substantially similar terms for four
3225 additional 1-year terms, unless canceled or not renewed by the

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3226 policyholder. If an insurer assumes the corporation's
3227 obligations for a policy, it must issue a replacement policy for
3228 a 1-year term upon expiration of the corporation policy and must
3229 renew the replacement policy at approved rates on substantially
3230 similar terms for four additional 1-year terms, unless canceled
3231 or not renewed by the policyholder. For each replacement policy
3232 canceled or nonrenewed by the insurer for any reason during the
3233 5-year coverage period, the insurer must remove from the
3234 corporation one additional policy covering a risk similar to the
3235 risk covered by the canceled or nonrenewed policy. In addition,
3236 the corporation must place the bonus moneys in escrow for 5
3237 years; such moneys may be released from escrow only to pay
3238 claims. If the policy is canceled or nonrenewed before the end
3239 of the 5-year period, the amount of the take-out bonus must be
3240 prorated for the time period the policy was insured. A take-out
3241 bonus provided by subsection (2) or subsection (6) is not
3242 premium income for purposes of taxes and assessments under the
3243 Florida Insurance Code and remains the property of the
3244 corporation, subject to the prior security interest of the
3245 insurer under the escrow agreement until it is released from
3246 escrow; after it is released from escrow it is considered an
3247 asset of the insurer and credited to the insurer's capital and
3248 surplus.

3249 ~~(b) It is the intent of the Legislature that an insurer~~
3250 ~~eligible for the exemption under paragraph (3)(a) establish a~~

3251 ~~preference in appointment of agents for those agents who lose a~~
 3252 ~~substantial amount of business as a result of risks being~~
 3253 ~~removed from the corporation.~~

3254 (6) COMMERCIAL RESIDENTIAL TAKE-OUT PLANS.—

3255 ~~(d) The calculation of an insurer's regular assessment~~
 3256 ~~liability under s. 627.351(6)(b)3.a., but not emergency~~
 3257 ~~assessments collected from policyholders pursuant to s.~~
 3258 ~~627.351(6)(b)3.c., shall, with respect to commercial residential~~
 3259 ~~policies removed from the corporation under an approved take-out~~
 3260 ~~plan, exclude such removed policies for the succeeding 3 years,~~
 3261 ~~as follows:~~

3262 1. ~~In the first year following removal of the policies,~~
 3263 ~~the policies are excluded from the calculation to the extent of~~
 3264 ~~100 percent.~~

3265 2. ~~In the second year following removal of the policies,~~
 3266 ~~the policies are excluded from the calculation to the extent of~~
 3267 ~~75 percent.~~

3268 3. ~~In the third year following removal of the policies,~~
 3269 ~~the policies are excluded from the calculation to the extent of~~
 3270 ~~50 percent.~~

3271 ~~(e) An insurer that first wrote commercial residential~~
 3272 ~~property coverage in this state on or after June 1, 1996, is~~
 3273 ~~exempt from regular assessments under s. 627.351(6)(b)3.a., but~~
 3274 ~~not emergency assessments collected from policyholders pursuant~~
 3275 ~~to s. 627.351(6)(b)3.c., with respect to commercial residential~~

3276 ~~policies until the earlier of:~~

3277 ~~1. The end of the calendar year in which such insurer~~
 3278 ~~first wrote 0.5 percent or more of the statewide aggregate~~
 3279 ~~direct written premium for commercial residential property~~
 3280 ~~coverage; or~~

3281 ~~2. December 31 of the third year in which such insurer~~
 3282 ~~wrote commercial residential property coverage in this state.~~

3283 ~~(f) An insurer that is not otherwise exempt from regular~~
 3284 ~~assessments under s. 627.351(6)(b)3.a. with respect to~~
 3285 ~~commercial residential policies is, for any calendar year in~~
 3286 ~~which such insurer increased its total commercial residential~~
 3287 ~~hurricane exposure by 25 percent or more over its exposure for~~
 3288 ~~the preceding calendar year, exempt from regular assessments~~
 3289 ~~under s. 627.351(6)(b)3.a., but not emergency assessments~~
 3290 ~~collected from policyholders pursuant to s. 627.351(6)(b)3.e.,~~
 3291 ~~attributable to such increased exposure.~~

3292 Section 3. Subsections (5), (6), and (7) of section
 3293 627.3518, Florida Statutes, are amended to read:

3294 627.3518 Citizens Property Insurance Corporation
 3295 policyholder eligibility clearinghouse program.—The purpose of
 3296 this section is to provide a framework for the corporation to
 3297 implement a clearinghouse program by January 1, 2014.

3298 (5) Notwithstanding s. 627.3517, any applicant for new
 3299 coverage from the corporation is not eligible for coverage from
 3300 the corporation if provided an offer of coverage from an

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3301 authorized insurer through the program at a premium that is at
3302 or below the eligibility threshold for applicants for new
3303 coverage established in s. 627.351(6)(c)5.a. Whenever an offer
3304 of coverage for a personal lines risk is received for a
3305 policyholder of the corporation at renewal from an authorized
3306 insurer through the program which is at or below the eligibility
3307 threshold for policyholders of the corporation established in s.
3308 627.351(6)(c)5.a., the risk is not eligible for coverage with
3309 the corporation. In the event an offer of coverage for a new
3310 applicant is received from an authorized insurer through the
3311 program, and the premium offered exceeds the eligibility
3312 threshold for applicants for new coverage established in s.
3313 627.351(6)(c)5.a., the applicant or insured may elect to accept
3314 such coverage, or may elect to accept or continue coverage with
3315 the corporation. In the event an offer of coverage for a
3316 personal lines risk is received from an authorized insurer at
3317 renewal through the program, and the premium offered exceeds the
3318 eligibility threshold for policyholders of the corporation
3319 established in s. 627.351(6)(c)5.a., the insured may elect to
3320 accept such coverage, or may elect to accept or continue
3321 coverage with the corporation. Section 627.351(6)(c)5.a.(I) does
3322 not apply to an offer of coverage from an authorized insurer
3323 obtained through the program. However, notwithstanding any other
3324 provision of law, this subsection does not apply to a policy
3325 that does not cover a primary residence. As used in this

3326 subsection, the term "primary residence" has the same meaning as
3327 in sub-subparagraph s. 627.351(6)(c)2.a.

3328 (6) Independent insurance agents submitting new
3329 applications for coverage or that are the agent of record on a
3330 renewal policy submitted to the program:

3331 (a) Are granted and must maintain ownership and the
3332 exclusive use of expirations, records, or other written or
3333 electronic information directly related to such applications or
3334 renewals written through the corporation or through an insurer
3335 participating in the program, notwithstanding s.
3336 627.351(6)(c)5.a.(I)(B) and (II)(B). Such ownership is granted
3337 for as long as the insured remains with the agency or until sold
3338 or surrendered in writing by the agent. Contracts with the
3339 corporation or required by the corporation must not amend,
3340 modify, interfere with, or limit such rights of ownership. Such
3341 expirations, records, or other written or electronic information
3342 may be used to review an application, issue a policy, or for any
3343 other purpose necessary for placing such business through the
3344 program.

3345 (b) May not be required to be appointed by any insurer
3346 participating in the program for policies written solely through
3347 the program, notwithstanding the provisions of s. 626.112.

3348 (c) May accept an appointment from any insurer
3349 participating in the program.

3350 (d) May enter into either a standard or limited agency

3351 agreement with the insurer, at the insurer's option.

3352

3353 Applicants ineligible for coverage in accordance with subsection
3354 (5) remain ineligible if their independent agent is unwilling or
3355 unable for any reason, including the failure of such agent to be
3356 licensed as a surplus lines agent, to enter into a standard or
3357 limited agency agreement with an insurer participating in the
3358 program.

3359 (7) Exclusive agents submitting new applications for
3360 coverage or that are the agent of record on a renewal policy
3361 submitted to the program:

3362 (a) Must maintain ownership and the exclusive use of
3363 expirations, records, or other written or electronic information
3364 directly related to such applications or renewals written
3365 through the corporation or through an insurer participating in
3366 the program, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and
3367 (II)(B). Contracts with the corporation or required by the
3368 corporation must not amend, modify, interfere with, or limit
3369 such rights of ownership. Such expirations, records, or other
3370 written or electronic information may be used to review an
3371 application, issue a policy, or for any other purpose necessary
3372 for placing such business through the program.

3373 (b) May not be required to be appointed by any insurer
3374 participating in the program for policies written solely through
3375 the program, notwithstanding the provisions of s. 626.112.

3376 (c) Must only facilitate the placement of an offer of
 3377 coverage from an insurer whose limited servicing agreement is
 3378 approved by that exclusive agent's exclusive insurer.

3379 (d) May enter into a limited servicing agreement with the
 3380 insurer making an offer of coverage, and only after the
 3381 exclusive agent's insurer has approved the limited servicing
 3382 agreement terms. The exclusive agent's insurer must approve a
 3383 limited service agreement for the program for any insurer for
 3384 which it has approved a service agreement for other purposes.

3385
 3386 Applicants ineligible for coverage in accordance with subsection
 3387 (5) remain ineligible if their exclusive agent is unwilling or
 3388 unable for any reason, including the failure of such agent to be
 3389 licensed as a surplus lines agent, to enter into a standard or
 3390 limited agency agreement with an insurer making an offer of
 3391 coverage to that applicant. This subsection does not apply to an
 3392 authorized insurer that is an eligible surplus lines insurer.

3393 Section 4. This act shall take effect July 1, 2024.