



975616

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Banking and Insurance (Boyd) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present subsection (7) of section 627.351,
Florida Statutes, is redesignated as subsection (8), a new
subsection (7) is added to that section, paragraph (nn) is added
to subsection (6) of that section, and paragraph (b) of
subsection (2) and paragraphs (a), (b), (c), (e), (n) through
(q), (v), (w), (x), (z), and (ii) of subsection (6) of that



975616

11 section are amended, to read:

12 627.351 Insurance risk apportionment plans.—

13 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

14 (b) The department shall require all insurers holding a
15 certificate of authority to transact property insurance on a
16 direct basis in this state, other than joint underwriting
17 associations and other entities formed pursuant to this section,
18 to provide windstorm coverage to applicants from areas
19 determined to be eligible pursuant to paragraph (c) who in good
20 faith are entitled to, but are unable to procure, such coverage
21 through ordinary means; or it shall adopt a reasonable plan or
22 plans for the equitable apportionment or sharing among such
23 insurers of windstorm coverage, which may include formation of
24 an association for this purpose. As used in this subsection, the
25 term "property insurance" means insurance on real or personal
26 property, as defined in s. 624.604, including insurance for
27 fire, industrial fire, allied lines, farmowners multiperil,
28 homeowners multiperil, commercial multiperil, and mobile homes,
29 and including liability coverages on all such insurance, but
30 excluding inland marine as defined in s. 624.607(3) and
31 excluding vehicle insurance as defined in s. 624.605(1)(a) other
32 than insurance on mobile homes used as permanent dwellings. The
33 department shall adopt rules that provide a formula for the
34 recovery and repayment of any deferred assessments.

35 1. For the purpose of this section, properties eligible for
36 such windstorm coverage are defined as dwellings, buildings, and
37 other structures, including mobile homes which are used as
38 dwellings and which are tied down in compliance with mobile home
39 tie-down requirements prescribed by the Department of Highway



975616

40 Safety and Motor Vehicles pursuant to s. 320.8325, and the
41 contents of all such properties. An applicant or policyholder is
42 eligible for coverage only if an offer of coverage cannot be
43 obtained by or for the applicant or policyholder from an
44 admitted insurer at approved rates.

45 2.a.(I) All insurers required to be members of such
46 association shall participate in its writings, expenses, and
47 losses. Surplus of the association shall be retained for the
48 payment of claims and shall not be distributed to the member
49 insurers. Such participation by member insurers shall be in the
50 proportion that the net direct premiums of each member insurer
51 written for property insurance in this state during the
52 preceding calendar year bear to the aggregate net direct
53 premiums for property insurance of all member insurers, as
54 reduced by any credits for voluntary writings, in this state
55 during the preceding calendar year. For the purposes of this
56 subsection, the term "net direct premiums" means direct written
57 premiums for property insurance, reduced by premium for
58 liability coverage and for the following if included in allied
59 lines: rain and hail on growing crops; livestock; association
60 direct premiums booked; National Flood Insurance Program direct
61 premiums; and similar deductions specifically authorized by the
62 plan of operation and approved by the department. A member's
63 participation shall begin on the first day of the calendar year
64 following the year in which it is issued a certificate of
65 authority to transact property insurance in the state and shall
66 terminate 1 year after the end of the calendar year during which
67 it no longer holds a certificate of authority to transact
68 property insurance in the state. The commissioner, after review



69 of annual statements, other reports, and any other statistics
70 that the commissioner deems necessary, shall certify to the
71 association the aggregate direct premiums written for property
72 insurance in this state by all member insurers.

73 (II) Effective July 1, 2002, the association shall operate
74 subject to the supervision and approval of a board of governors
75 who are the same individuals that have been appointed by the
76 Treasurer to serve on the board of governors of the Citizens
77 Property Insurance Corporation.

78 (III) The plan of operation shall provide a formula whereby
79 a company voluntarily providing windstorm coverage in affected
80 areas will be relieved wholly or partially from apportionment of
81 a regular assessment pursuant to sub-sub-subparagraph d.(I) or
82 sub-sub-subparagraph d.(II).

83 (IV) A company which is a member of a group of companies
84 under common management may elect to have its credits applied on
85 a group basis, and any company or group may elect to have its
86 credits applied to any other company or group.

87 (V) There shall be no credits or relief from apportionment
88 to a company for emergency assessments collected from its
89 policyholders under sub-sub-subparagraph d.(III).

90 (VI) The plan of operation may also provide for the award
91 of credits, for a period not to exceed 3 years, from a regular
92 assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-
93 subparagraph d.(II) as an incentive for taking policies out of
94 the Residential Property and Casualty Joint Underwriting
95 Association. In order to qualify for the exemption under this
96 sub-sub-subparagraph, the take-out plan must provide that at
97 least 40 percent of the policies removed from the Residential



975616

98 Property and Casualty Joint Underwriting Association cover risks
99 located in Miami-Dade, Broward, and Palm Beach Counties or at
100 least 30 percent of the policies so removed cover risks located
101 in Miami-Dade, Broward, and Palm Beach Counties and an
102 additional 50 percent of the policies so removed cover risks
103 located in other coastal counties, and must also provide that no
104 more than 15 percent of the policies so removed may exclude
105 windstorm coverage. With the approval of the department, the
106 association may waive these geographic criteria for a take-out
107 plan that removes at least the lesser of 100,000 Residential
108 Property and Casualty Joint Underwriting Association policies or
109 15 percent of the total number of Residential Property and
110 Casualty Joint Underwriting Association policies, provided the
111 governing board of the Residential Property and Casualty Joint
112 Underwriting Association certifies that the take-out plan will
113 materially reduce the Residential Property and Casualty Joint
114 Underwriting Association's 100-year probable maximum loss from
115 hurricanes. With the approval of the department, the board may
116 extend such credits for an additional year if the insurer
117 guarantees an additional year of renewability for all policies
118 removed from the Residential Property and Casualty Joint
119 Underwriting Association, or for 2 additional years if the
120 insurer guarantees 2 additional years of renewability for all
121 policies removed from the Residential Property and Casualty
122 Joint Underwriting Association.

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

126 c. The Legislature finds that the potential for unlimited



127 deficit assessments under this subparagraph may induce insurers
128 to attempt to reduce their writings in the voluntary market, and
129 that such actions would worsen the availability problems that
130 the association was created to remedy. It is the intent of the
131 Legislature that insurers remain fully responsible for paying
132 regular assessments and collecting emergency assessments for any
133 deficits of the association; however, it is also the intent of
134 the Legislature to provide a means by which assessment
135 liabilities may be amortized over a period of years.

136 d.(I) When the deficit incurred in a particular calendar
137 year is 10 percent or less of the aggregate statewide direct
138 written premium for property insurance for the prior calendar
139 year for all member insurers, the association shall levy an
140 assessment on member insurers in an amount equal to the deficit.

141 (II) When the deficit incurred in a particular calendar
142 year exceeds 10 percent of the aggregate statewide direct
143 written premium for property insurance for the prior calendar
144 year for all member insurers, the association shall levy an
145 assessment on member insurers in an amount equal to the greater
146 of 10 percent of the deficit or 10 percent of the aggregate
147 statewide direct written premium for property insurance for the
148 prior calendar year for member insurers. Any remaining deficit
149 shall be recovered through emergency assessments under sub-sub-
150 subparagraph (III).

151 (III) Upon a determination by the board of directors that a
152 deficit exceeds the amount that will be recovered through
153 regular assessments on member insurers, pursuant to sub-sub-
154 subparagraph (I) or sub-sub-subparagraph (II), the board shall
155 levy, after verification by the department, emergency



975616

156 assessments to be collected by member insurers and by
157 underwriting associations created pursuant to this section which
158 write property insurance, upon issuance or renewal of property
159 insurance policies other than National Flood Insurance policies
160 in the year or years following levy of the regular assessments.
161 The amount of the emergency assessment collected in a particular
162 year shall be a uniform percentage of that year's direct written
163 premium for property insurance for all member insurers and
164 underwriting associations, excluding National Flood Insurance
165 policy premiums, as annually determined by the board and
166 verified by the department. The department shall verify the
167 arithmetic calculations involved in the board's determination
168 within 30 days after receipt of the information on which the
169 determination was based. Notwithstanding any other provision of
170 law, each member insurer and each underwriting association
171 created pursuant to this section shall collect emergency
172 assessments from its policyholders without such obligation being
173 affected by any credit, limitation, exemption, or deferment. The
174 emergency assessments so collected shall be transferred directly
175 to the association on a periodic basis as determined by the
176 association. The aggregate amount of emergency assessments
177 levied under this sub-sub-subparagraph in any calendar year may
178 not exceed the greater of 10 percent of the amount needed to
179 cover the original deficit, plus interest, fees, commissions,
180 required reserves, and other costs associated with financing of
181 the original deficit, or 10 percent of the aggregate statewide
182 direct written premium for property insurance written by member
183 insurers and underwriting associations for the prior year, plus
184 interest, fees, commissions, required reserves, and other costs



975616

185 associated with financing the original deficit. The board may
186 pledge the proceeds of the emergency assessments under this sub-
187 sub-subparagraph as the source of revenue for bonds, to retire
188 any other debt incurred as a result of the deficit or events
189 giving rise to the deficit, or in any other way that the board
190 determines will efficiently recover the deficit. The emergency
191 assessments under this sub-sub-subparagraph shall continue as
192 long as any bonds issued or other indebtedness incurred with
193 respect to a deficit for which the assessment was imposed remain
194 outstanding, unless adequate provision has been made for the
195 payment of such bonds or other indebtedness pursuant to the
196 document governing such bonds or other indebtedness. Emergency
197 assessments collected under this sub-sub-subparagraph are not
198 part of an insurer's rates, are not premium, and are not subject
199 to premium tax, fees, or commissions; however, failure to pay
200 the emergency assessment shall be treated as failure to pay
201 premium.

202 (IV) Each member insurer's share of the total regular
203 assessments under sub-sub-subparagraph (I) or sub-sub-
204 subparagraph (II) shall be in the proportion that the insurer's
205 net direct premium for property insurance in this state, for the
206 year preceding the assessment bears to the aggregate statewide
207 net direct premium for property insurance of all member
208 insurers, as reduced by any credits for voluntary writings for
209 that year.

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



214 upon the association's policyholders, as part of its next rate
215 filing, or by a separate rate filing solely for this purpose, a
216 market equalization surcharge in a percentage equal to the total
217 amount of such regular assessments divided by the aggregate
218 statewide direct written premium for property insurance for
219 member insurers for the prior calendar year. Market equalization
220 surcharges under this sub-sub-subparagraph are not considered
221 premium and are not subject to commissions, fees, or premium
222 taxes; however, failure to pay a market equalization surcharge
223 shall be treated as failure to pay premium.

224 e. The governing body of any unit of local government, any
225 residents of which are insured under the plan, may issue bonds
226 as defined in s. 125.013 or s. 166.101 to fund an assistance
227 program, in conjunction with the association, for the purpose of
228 defraying deficits of the association. In order to avoid
229 needless and indiscriminate proliferation, duplication, and
230 fragmentation of such assistance programs, any unit of local
231 government, any residents of which are insured by the
232 association, may provide for the payment of losses, regardless
233 of whether or not the losses occurred within or outside of the
234 territorial jurisdiction of the local government. Revenue bonds
235 may not be issued until validated pursuant to chapter 75, unless
236 a state of emergency is declared by executive order or
237 proclamation of the Governor pursuant to s. 252.36 making such
238 findings as are necessary to determine that it is in the best
239 interests of, and necessary for, the protection of the public
240 health, safety, and general welfare of residents of this state
241 and the protection and preservation of the economic stability of
242 insurers operating in this state, and declaring it an essential



975616

243 public purpose to permit certain municipalities or counties to
244 issue bonds as will provide relief to claimants and
245 policyholders of the association and insurers responsible for
246 apportionment of plan losses. Any such unit of local government
247 may enter into such contracts with the association and with any
248 other entity created pursuant to this subsection as are
249 necessary to carry out this paragraph. Any bonds issued under
250 this sub-subparagraph shall be payable from and secured by
251 moneys received by the association from assessments under this
252 subparagraph, and assigned and pledged to or on behalf of the
253 unit of local government for the benefit of the holders of such
254 bonds. The funds, credit, property, and taxing power of the
255 state or of the unit of local government shall not be pledged
256 for the payment of such bonds. If any of the bonds remain unsold
257 60 days after issuance, the department shall require all
258 insurers subject to assessment to purchase the bonds, which
259 shall be treated as admitted assets; each insurer shall be
260 required to purchase that percentage of the unsold portion of
261 the bond issue that equals the insurer's relative share of
262 assessment liability under this subsection. An insurer shall not
263 be required to purchase the bonds to the extent that the
264 department determines that the purchase would endanger or impair
265 the solvency of the insurer. The authority granted by this sub-
266 subparagraph is additional to any bonding authority granted by
267 subparagraph 6.

268 3. The plan shall also provide that any member with a
269 surplus as to policyholders of \$25 million or less writing 25
270 percent or more of its total countrywide property insurance
271 premiums in this state may petition the department, within the



272 first 90 days of each calendar year, to qualify as a limited
273 apportionment company. The apportionment of such a member
274 company in any calendar year for which it is qualified shall not
275 exceed its gross participation, which shall not be affected by
276 the formula for voluntary writings. In no event shall a limited
277 apportionment company be required to participate in any
278 apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I)
279 or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds
280 \$50 million after payment of available plan funds in any
281 calendar year. However, a limited apportionment company shall
282 collect from its policyholders any emergency assessment imposed
283 under sub-sub-subparagraph 2.d.(III). The plan shall provide
284 that, if the department determines that any regular assessment
285 will result in an impairment of the surplus of a limited
286 apportionment company, the department may direct that all or
287 part of such assessment be deferred. However, there shall be no
288 limitation or deferment of an emergency assessment to be
289 collected from policyholders under sub-sub-subparagraph
290 2.d.(III).

291 4. The plan shall provide for the deferment, in whole or in
292 part, of a regular assessment of a member insurer under sub-sub-
293 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but not
294 for an emergency assessment collected from policyholders under
295 sub-sub-subparagraph 2.d.(III), if, in the opinion of the
296 commissioner, payment of such regular assessment would endanger
297 or impair the solvency of the member insurer. In the event a
298 regular assessment against a member insurer is deferred in whole
299 or in part, the amount by which such assessment is deferred may
300 be assessed against the other member insurers in a manner



975616

301 consistent with the basis for assessments set forth in sub-sub-
302 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

303 5.a. The plan of operation may include deductibles and
304 rules for classification of risks and rate modifications
305 consistent with the objective of providing and maintaining funds
306 sufficient to pay catastrophe losses.

307 b. It is the intent of the Legislature that the rates for
308 coverage provided by the association be actuarially sound and
309 not competitive with approved rates charged in the admitted
310 voluntary market such that the association functions as a
311 residual market mechanism to provide insurance only when the
312 insurance cannot be procured in the voluntary market. The plan
313 of operation shall provide a mechanism to assure that, beginning
314 no later than January 1, 1999, the rates charged by the
315 association for each line of business are reflective of approved
316 rates in the voluntary market for hurricane coverage for each
317 line of business in the various areas eligible for association
318 coverage.

319 c. The association shall provide for windstorm coverage on
320 residential properties in limits up to \$10 million for
321 commercial lines residential risks and up to \$1 million for
322 personal lines residential risks. If coverage with the
323 association is sought for a residential risk valued in excess of
324 these limits, coverage shall be available to the risk up to the
325 replacement cost or actual cash value of the property, at the
326 option of the insured, if coverage for the risk cannot be
327 located in the authorized market. The association must accept a
328 commercial lines residential risk with limits above \$10 million
329 or a personal lines residential risk with limits above \$1



975616

330 million if coverage is not available in the authorized market.
331 The association may write coverage above the limits specified in
332 this subparagraph with or without facultative or other
333 reinsurance coverage, as the association determines appropriate.

334 d. The plan of operation must provide objective criteria
335 and procedures, approved by the department, to be uniformly
336 applied for all applicants in determining whether an individual
337 risk is so hazardous as to be uninsurable. In making this
338 determination and in establishing the criteria and procedures,
339 the following shall be considered:

340 (I) Whether the likelihood of a loss for the individual
341 risk is substantially higher than for other risks of the same
342 class; and

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

345
346 The acceptance or rejection of a risk by the association
347 pursuant to such criteria and procedures must be construed as
348 the private placement of insurance, and the provisions of
349 chapter 120 do not apply.

350 e. If the risk accepts an offer of coverage through the
351 market assistance program or through a mechanism established by
352 the association, either before the policy is issued by the
353 association or during the first 30 days of coverage by the
354 association, and the producing agent who submitted the
355 application to the association is not currently appointed by the
356 insurer, the insurer shall:

357 (I) Pay to the producing agent of record of the policy, for
358 the first year, an amount that is the greater of the insurer's



975616

359 usual and customary commission for the type of policy written or
360 a fee equal to the usual and customary commission of the
361 association; or

362 (II) Offer to allow the producing agent of record of the
363 policy to continue servicing the policy for a period of not less
364 than 1 year and offer to pay the agent the greater of the
365 insurer's or the association's usual and customary commission
366 for the type of policy written.

367
368 If the producing agent is unwilling or unable to accept
369 appointment, the new insurer shall pay the agent in accordance
370 with sub-sub-subparagraph (I). Subject to the provisions of s.
371 627.3517, the policies issued by the association must provide
372 that if the association obtains an offer from an authorized
373 insurer to cover the risk at its approved rates under either a
374 standard policy including wind coverage or, if consistent with
375 the insurer's underwriting rules as filed with the department, a
376 basic policy including wind coverage, the risk is no longer
377 eligible for coverage through the association. Upon termination
378 of eligibility, the association shall provide written notice to
379 the policyholder and agent of record stating that the
380 association policy must be canceled as of 60 days after the date
381 of the notice because of the offer of coverage from an
382 authorized insurer. Other provisions of the insurance code
383 relating to cancellation and notice of cancellation do not apply
384 to actions under this sub-subparagraph.

385 f. When the association enters into a contractual agreement
386 for a take-out plan, the producing agent of record of the
387 association policy is entitled to retain any unearned commission



975616

388 on the policy, and the insurer shall:

389 (I) Pay to the producing agent of record of the association
390 policy, for the first year, an amount that is the greater of the
391 insurer's usual and customary commission for the type of policy
392 written or a fee equal to the usual and customary commission of
393 the association; or

394 (II) Offer to allow the producing agent of record of the
395 association policy to continue servicing the policy for a period
396 of not less than 1 year and offer to pay the agent the greater
397 of the insurer's or the association's usual and customary
398 commission for the type of policy written.

399
400 If the producing agent is unwilling or unable to accept
401 appointment, the new insurer shall pay the agent in accordance
402 with sub-sub-subparagraph (I).

403 6.a. The plan of operation may authorize the formation of a
404 private nonprofit corporation, a private nonprofit
405 unincorporated association, a partnership, a trust, a limited
406 liability company, or a nonprofit mutual company which may be
407 empowered, among other things, to borrow money by issuing bonds
408 or by incurring other indebtedness and to accumulate reserves or
409 funds to be used for the payment of insured catastrophe losses.
410 The plan may authorize all actions necessary to facilitate the
411 issuance of bonds, including the pledging of assessments or
412 other revenues.

413 b. Any entity created under this subsection, or any entity
414 formed for the purposes of this subsection, may sue and be sued,
415 may borrow money; issue bonds, notes, or debt instruments;
416 pledge or sell assessments, market equalization surcharges and



975616

417 other surcharges, rights, premiums, contractual rights,
418 projected recoveries from the Florida Hurricane Catastrophe
419 Fund, other reinsurance recoverables, and other assets as
420 security for such bonds, notes, or debt instruments; enter into
421 any contracts or agreements necessary or proper to accomplish
422 such borrowings; and take other actions necessary to carry out
423 the purposes of this subsection. The association may issue bonds
424 or incur other indebtedness, or have bonds issued on its behalf
425 by a unit of local government pursuant to subparagraph (6)(q)2.,
426 in the absence of a hurricane or other weather-related event,
427 upon a determination by the association subject to approval by
428 the department that such action would enable it to efficiently
429 meet the financial obligations of the association and that such
430 financings are reasonably necessary to effectuate the
431 requirements of this subsection. Any such entity may accumulate
432 reserves and retain surpluses as of the end of any association
433 year to provide for the payment of losses incurred by the
434 association during that year or any future year. The association
435 shall incorporate and continue the plan of operation and
436 articles of agreement in effect on the effective date of chapter
437 76-96, Laws of Florida, to the extent that it is not
438 inconsistent with chapter 76-96, and as subsequently modified
439 consistent with chapter 76-96. The board of directors and
440 officers currently serving shall continue to serve until their
441 successors are duly qualified as provided under the plan. The
442 assets and obligations of the plan in effect immediately prior
443 to the effective date of chapter 76-96 shall be construed to be
444 the assets and obligations of the successor plan created herein.

445 c. In recognition of s. 10, Art. I of the State



975616

446 Constitution, prohibiting the impairment of obligations of
447 contracts, it is the intent of the Legislature that no action be
448 taken whose purpose is to impair any bond indenture or financing
449 agreement or any revenue source committed by contract to such
450 bond or other indebtedness issued or incurred by the association
451 or any other entity created under this subsection.

452 7. On such coverage, an agent's remuneration shall be that
453 amount of money payable to the agent by the terms of his or her
454 contract with the company with which the business is placed.
455 However, no commission will be paid on that portion of the
456 premium which is in excess of the standard premium of that
457 company.

458 8. Subject to approval by the department, the association
459 may establish different eligibility requirements and operational
460 procedures for any line or type of coverage for any specified
461 eligible area or portion of an eligible area if the board
462 determines that such changes to the eligibility requirements and
463 operational procedures are justified due to the voluntary market
464 being sufficiently stable and competitive in such area or for
465 such line or type of coverage and that consumers who, in good
466 faith, are unable to obtain insurance through the voluntary
467 market through ordinary methods would continue to have access to
468 coverage from the association. When coverage is sought in
469 connection with a real property transfer, such requirements and
470 procedures shall not provide for an effective date of coverage
471 later than the date of the closing of the transfer as
472 established by the transferor, the transferee, and, if
473 applicable, the lender.

474 9. Notwithstanding any other provision of law:



975616

475 a. The pledge or sale of, the lien upon, and the security
476 interest in any rights, revenues, or other assets of the
477 association created or purported to be created pursuant to any
478 financing documents to secure any bonds or other indebtedness of
479 the association shall be and remain valid and enforceable,
480 notwithstanding the commencement of and during the continuation
481 of, and after, any rehabilitation, insolvency, liquidation,
482 bankruptcy, receivership, conservatorship, reorganization, or
483 similar proceeding against the association under the laws of
484 this state or any other applicable laws.

485 b. No such proceeding shall relieve the association of its
486 obligation, or otherwise affect its ability to perform its
487 obligation, to continue to collect, or levy and collect,
488 assessments, market equalization or other surcharges, projected
489 recoveries from the Florida Hurricane Catastrophe Fund,
490 reinsurance recoverables, or any other rights, revenues, or
491 other assets of the association pledged.

492 c. Each such pledge or sale of, lien upon, and security
493 interest in, including the priority of such pledge, lien, or
494 security interest, any such assessments, emergency assessments,
495 market equalization or renewal surcharges, projected recoveries
496 from the Florida Hurricane Catastrophe Fund, reinsurance
497 recoverables, or other rights, revenues, or other assets which
498 are collected, or levied and collected, after the commencement
499 of and during the pendency of or after any such proceeding shall
500 continue unaffected by such proceeding.

501 d. As used in this subsection, the term "financing
502 documents" means any agreement, instrument, or other document
503 now existing or hereafter created evidencing any bonds or other



975616

504 indebtedness of the association or pursuant to which any such
505 bonds or other indebtedness has been or may be issued and
506 pursuant to which any rights, revenues, or other assets of the
507 association are pledged or sold to secure the repayment of such
508 bonds or indebtedness, together with the payment of interest on
509 such bonds or such indebtedness, or the payment of any other
510 obligation of the association related to such bonds or
511 indebtedness.

512 e. Any such pledge or sale of assessments, revenues,
513 contract rights or other rights or assets of the association
514 shall constitute a lien and security interest, or sale, as the
515 case may be, that is immediately effective and attaches to such
516 assessments, revenues, contract, or other rights or assets,
517 whether or not imposed or collected at the time the pledge or
518 sale is made. Any such pledge or sale is effective, valid,
519 binding, and enforceable against the association or other entity
520 making such pledge or sale, and valid and binding against and
521 superior to any competing claims or obligations owed to any
522 other person or entity, including policyholders in this state,
523 asserting rights in any such assessments, revenues, contract, or
524 other rights or assets to the extent set forth in and in
525 accordance with the terms of the pledge or sale contained in the
526 applicable financing documents, whether or not any such person
527 or entity has notice of such pledge or sale and without the need
528 for any physical delivery, recordation, filing, or other action.

529 f. There shall be no liability on the part of, and no cause
530 of action of any nature shall arise against, any member insurer
531 or its agents or employees, agents or employees of the
532 association, members of the board of directors of the



975616

533 association, or the department or its representatives, for any
534 action taken by them in the performance of their duties or
535 responsibilities under this subsection. Such immunity does not
536 apply to actions for breach of any contract or agreement
537 pertaining to insurance, or any willful tort.

538 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

542 1. The Legislature finds that private insurers are
543 unwilling or unable to provide affordable property insurance
544 coverage in this state to the extent sought and needed. The
545 absence of affordable property insurance threatens the public
546 health, safety, and welfare and likewise threatens the economic
547 health of the state. The state therefore has a compelling public
548 interest and a public purpose to assist in assuring that
549 property in the state is insured and that it is insured at
550 affordable rates so as to facilitate the remediation,
551 reconstruction, and replacement of damaged or destroyed property
552 in order to reduce or avoid the negative effects otherwise
553 resulting to the public health, safety, and welfare, to the
554 economy of the state, and to the revenues of the state and local
555 governments which are needed to provide for the public welfare.
556 It is necessary, therefore, to provide affordable property
557 insurance to applicants who are in good faith entitled to
558 procure insurance through the voluntary market but are unable to
559 do so. The Legislature intends, therefore, that affordable
560 property insurance be provided and that it continue to be
561 provided, as long as necessary, through Citizens Property



975616

562 Insurance Corporation, a government entity that is an integral
563 part of the state, and that is not a private insurance company.
564 To that end, the corporation shall strive to increase the
565 availability of affordable property insurance in this state,
566 while achieving efficiencies and economies, and while providing
567 service to policyholders, applicants, and agents which is no
568 less than the quality generally provided in the voluntary
569 market, for the achievement of the foregoing public purposes.
570 Because it is essential for this government entity to have the
571 maximum financial resources to pay claims following a
572 catastrophic hurricane, it is the intent of the Legislature that
573 the corporation continue to be an integral part of the state and
574 that the income of the corporation be exempt from federal income
575 taxation and that interest on the debt obligations issued by the
576 corporation be exempt from federal income taxation.

577 2. The Residential Property and Casualty Joint Underwriting
578 Association originally created by this statute shall be known as
579 the Citizens Property Insurance Corporation. The corporation
580 shall provide insurance for residential and commercial property,
581 for applicants who are entitled, but, in good faith, are unable
582 to procure insurance through the voluntary market. The
583 corporation shall operate pursuant to a plan of operation
584 approved by order of the Financial Services Commission. The plan
585 is subject to continuous review by the commission. The
586 commission may, by order, withdraw approval of all or part of a
587 plan if the commission determines that conditions have changed
588 since approval was granted and that the purposes of the plan
589 require changes in the plan. For the purposes of this
590 subsection, residential coverage includes both personal lines



975616

591 residential coverage, which consists of the type of coverage
592 provided by homeowner, mobile home owner, dwelling, tenant,
593 condominium unit owner, and similar policies; and commercial
594 lines residential coverage, which consists of the type of
595 coverage provided by condominium association, apartment
596 building, and similar policies.

597 3. With respect to coverage for personal lines residential
598 structures:

599 ~~a. Effective January 1, 2014, a structure that has a~~
600 ~~dwelling replacement cost of \$1 million or more, or a single~~
601 ~~condominium unit that has a combined dwelling and contents~~
602 ~~replacement cost of \$1 million or more, is not eligible for~~
603 ~~coverage by the corporation. Such dwellings insured by the~~
604 ~~corporation on December 31, 2013, may continue to be covered by~~
605 ~~the corporation until the end of the policy term. The office~~
606 ~~shall approve the method used by the corporation for valuing the~~
607 ~~dwelling replacement cost for the purposes of this subparagraph.~~
608 ~~If a policyholder is insured by the corporation before being~~
609 ~~determined to be ineligible pursuant to this subparagraph and~~
610 ~~such policyholder files a lawsuit challenging the determination,~~
611 ~~the policyholder may remain insured by the corporation until the~~
612 ~~conclusion of the litigation.~~

613 ~~b. Effective January 1, 2015, a structure that has a~~
614 ~~dwelling replacement cost of \$900,000 or more, or a single~~
615 ~~condominium unit that has a combined dwelling and contents~~
616 ~~replacement cost of \$900,000 or more, is not eligible for~~
617 ~~coverage by the corporation. Such dwellings insured by the~~
618 ~~corporation on December 31, 2014, may continue to be covered by~~
619 ~~the corporation only until the end of the policy term.~~



975616

620 ~~e. Effective January 1, 2016, a structure that has a~~
621 ~~dwelling replacement cost of \$800,000 or more, or a single~~
622 ~~condominium unit that has a combined dwelling and contents~~
623 ~~replacement cost of \$800,000 or more, is not eligible for~~
624 ~~coverage by the corporation. Such dwellings insured by the~~
625 ~~corporation on December 31, 2015, may continue to be covered by~~
626 ~~the corporation until the end of the policy term.~~

627 ~~d. Effective January 1, 2017, a structure that has a~~
628 ~~dwelling replacement cost of \$700,000 or more, or a single~~
629 ~~condominium unit that has a combined dwelling and contents~~
630 ~~replacement cost of \$700,000 or more, is not eligible for~~
631 ~~coverage by the corporation. Such dwellings insured by the~~
632 ~~corporation on December 31, 2016, may continue to be covered by~~
633 ~~the corporation until the end of the policy term.~~

634 b. The requirements of sub-subparagraph a. ~~sub-~~
635 ~~subparagraphs b. d.~~ do not apply in counties where the office
636 determines there is not a reasonable degree of competition. In
637 such counties a personal lines residential structure that has a
638 dwelling replacement cost of less than \$1 million, or a single
639 condominium unit that has a combined dwelling and contents
640 replacement cost of less than \$1 million, is eligible for
641 coverage by the corporation.

642 4. It is the intent of the Legislature that policyholders,
643 applicants, and agents of the corporation receive service and
644 treatment of the highest possible level but never less than that
645 generally provided in the voluntary market. It is also intended
646 that the corporation be held to service standards no less than
647 those applied to insurers in the voluntary market by the office
648 with respect to responsiveness, timeliness, customer courtesy,



975616

649 and overall dealings with policyholders, applicants, or agents
650 of the corporation.

651 5.a. Effective January 1, 2009, a personal lines
652 residential structure that is located in the "wind-borne debris
653 region," as defined in s. 1609.2, International Building Code
654 (2006), and that has an insured value on the structure of
655 \$750,000 or more is not eligible for coverage by the corporation
656 unless the structure has opening protections as required under
657 the Florida Building Code for a newly constructed residential
658 structure in that area. A residential structure is deemed to
659 comply with this sub-subparagraph if it has shutters or opening
660 protections on all openings and if such opening protections
661 complied with the Florida Building Code at the time they were
662 installed.

663 b. Any major structure, as defined in s. 161.54(6)(a), that
664 is newly constructed, or rebuilt, repaired, restored, or
665 remodeled to increase the total square footage of finished area
666 by more than 25 percent, pursuant to a permit applied for after
667 July 1, 2015, is not eligible for coverage by the corporation if
668 the structure is seaward of the coastal construction control
669 line established pursuant to s. 161.053 or is within the Coastal
670 Barrier Resources System as designated by 16 U.S.C. ss. 3501-
671 3510.

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

677 (b)1. All insurers authorized to write one or more subject



975616

678 lines of business in this state are subject to assessment by the
679 corporation and, for the purposes of this subsection, are
680 referred to collectively as "assessable insurers." Insurers
681 writing one or more subject lines of business in this state
682 pursuant to part VIII of chapter 626 are not assessable
683 insurers; however, insureds who procure one or more subject
684 lines of business in this state pursuant to part VIII of chapter
685 626 are subject to assessment by the corporation and are
686 referred to collectively as "assessable insureds." An insurer's
687 assessment liability begins on the first day of the calendar
688 year following the year in which the insurer was issued a
689 certificate of authority to transact insurance for subject lines
690 of business in this state and terminates 1 year after the end of
691 the first calendar year during which the insurer no longer holds
692 a certificate of authority to transact insurance for subject
693 lines of business in this state.

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

698 ~~a.(I)~~ A ~~personal lines account for~~ Personal residential
699 policies that provide ~~issued by the corporation which provides~~
700 comprehensive, multiperil coverage on risks that are not located
701 in areas eligible for coverage by the Florida Windstorm
702 Underwriting Association as those areas were defined on January
703 1, 2002, and for policies that do not provide coverage for the
704 peril of wind on risks that are located in such areas;

705 ~~b.(II)~~ A ~~commercial lines account for~~ Commercial
706 residential and commercial nonresidential policies that provide



975616

707 ~~issued by the corporation which provides~~ coverage for basic
708 property perils on risks that are not located in areas eligible
709 for coverage by the Florida Windstorm Underwriting Association
710 as those areas were defined on January 1, 2002, and for policies
711 that do not provide coverage for the peril of wind on risks that
712 are located in such areas; and

713 c. (III) ~~A coastal account for~~ Personal residential policies
714 and commercial residential and commercial nonresidential
715 property policies that provide ~~issued by the corporation which~~
716 ~~provides~~ coverage for the peril of wind on risks that are
717 located in areas eligible for coverage by the Florida Windstorm
718 Underwriting Association as those areas were defined on January
719 1, 2002. The corporation may offer policies that provide
720 multiperil coverage and shall offer policies that provide
721 coverage only for the peril of wind for risks located in areas
722 eligible for coverage by the Florida Windstorm Underwriting
723 Association, as those areas were defined on January 1, 2002 ~~in~~
724 ~~the coastal account. Effective July 1, 2014,~~ The corporation may
725 not offer ~~shall cease offering~~ new commercial residential
726 policies providing multiperil coverage but ~~and~~ shall ~~instead~~
727 continue to offer commercial residential wind-only policies, and
728 may offer commercial residential policies excluding wind.
729 However, the corporation may, ~~however,~~ continue to renew a
730 commercial residential multiperil policy on a building that was
731 ~~is~~ insured by the corporation on June 30, 2014, under a
732 multiperil policy. In issuing multiperil coverage under this
733 sub-subparagraph, the corporation may use its approved policy
734 forms and rates for risks located in areas not eligible for
735 coverage by the Florida Windstorm Underwriting Association, as



975616

736 those areas were defined on January 1, 2002, and for policies
737 that do not provide coverage for the peril of wind on risks that
738 are located in such areas ~~the personal lines account~~. An
739 applicant or insured who is eligible to purchase a multiperil
740 policy from the corporation may purchase a multiperil policy
741 from an authorized insurer without prejudice to the applicant's
742 or insured's eligibility to prospectively purchase a policy that
743 provides coverage only for the peril of wind from the
744 corporation. An applicant or insured who is eligible for a
745 corporation policy that provides coverage only for the peril of
746 wind may elect to purchase or retain such policy and also
747 purchase or retain coverage excluding wind from an authorized
748 insurer without prejudice to the applicant's or insured's
749 eligibility to prospectively purchase a policy that provides
750 multiperil coverage from the corporation. The following
751 policies, which provide coverage only for the peril of wind,
752 must also include quota share primary insurance under
753 subparagraph (c)2.:

754 (I) Personal residential policies and commercial
755 residential and commercial nonresidential property policies that
756 provide coverage for the peril of wind on risks that are located
757 in areas eligible for coverage by the Florida Windstorm
758 Underwriting Association, as those areas were defined on January
759 1, 2002;

760 (II) Policies that provide multiperil coverage, if offered
761 by the corporation, and policies that provide coverage only for
762 the peril of wind for risks located in areas eligible for
763 coverage by the Florida Windstorm Underwriting Association, as
764 those areas were defined on January 1, 2002;



975616

765 (III) Commercial residential wind-only policies;
766 (IV) Commercial residential policies excluding wind, if
767 offered by the corporation; and
768 (V) Commercial residential multiperil policies on a
769 building that was insured by the corporation on June 30, 2014 ~~It~~
770 ~~is the goal of the Legislature that there be an overall average~~
771 ~~savings of 10 percent or more for a policyholder who currently~~
772 ~~has a wind-only policy with the corporation, and an ex-wind~~
773 ~~policy with a voluntary insurer or the corporation, and who~~
774 ~~obtains a multiperil policy from the corporation. It is the~~
775 ~~intent of the Legislature that the offer of multiperil coverage~~
776 ~~in the coastal account be made and implemented in a manner that~~
777 ~~does not adversely affect the tax-exempt status of the~~
778 ~~corporation or creditworthiness of or security for currently~~
779 ~~outstanding financing obligations or credit facilities of the~~
780 ~~coastal account, the personal lines account, or the commercial~~
781 ~~lines account. The coastal account must also include quota share~~
782 ~~primary insurance under subparagraph (c)2.~~
783
784 The area eligible for coverage with the corporation under this
785 sub-subparagraph ~~under the coastal account~~ also includes the
786 area within Port Canaveral, which is bordered on the south by
787 the City of Cape Canaveral, bordered on the west by the Banana
788 River, and bordered on the north by Federal Government property.
789 3. With respect to a deficit in the Citizens account:
790 a. Upon a determination by the board of governors that the
791 Citizens account has a projected deficit, the board shall levy a
792 Citizens policyholder surcharge against all policyholders of the
793 corporation.



975616

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

797 (II) The surcharge is payable upon cancellation or
798 termination of the policy, upon renewal of the policy, or upon
799 issuance of a new policy by the corporation within the first 12
800 months after the date of the levy or the period of time
801 necessary to fully collect the surcharge amount.

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

805 ~~b. The three separate accounts must be maintained as long~~
806 ~~as financing obligations entered into by the Florida Windstorm~~
807 ~~Underwriting Association or Residential Property and Casualty~~
808 ~~Joint Underwriting Association are outstanding, in accordance~~
809 ~~with the terms of the corresponding financing documents. If no~~
810 ~~such financing obligations remain outstanding or if the~~
811 ~~financing documents allow for combining of accounts, the~~
812 ~~corporation may consolidate the three separate accounts into a~~
813 ~~new account, to be known as the Citizens account, for all~~
814 ~~revenues, assets, liabilities, losses, and expenses of the~~
815 ~~corporation. The Citizens account, if established by the~~
816 ~~corporation, is authorized to provide coverage to the same~~
817 ~~extent as provided under each of the three separate accounts.~~
818 ~~The authority to provide coverage under the Citizens account is~~
819 ~~set forth in subparagraph 4. Consistent with this subparagraph~~
820 ~~and prudent investment policies that minimize the cost of~~
821 ~~carrying debt, the board shall exercise its best efforts to~~
822 ~~retire existing debt or obtain the approval of necessary parties~~



975616

823 ~~to amend the terms of existing debt, so as to structure the most~~
824 ~~efficient plan for consolidating the three separate accounts~~
825 ~~into a single account. Once the accounts are combined into one~~
826 ~~account, this subparagraph and subparagraph 3. shall be replaced~~
827 ~~in their entirety by subparagraphs 4. and 5.~~

828 ~~e. Creditors of the Residential Property and Casualty Joint~~
829 ~~Underwriting Association and the accounts specified in sub-sub-~~
830 ~~subparagraphs a.(I) and (II) may have a claim against, and~~
831 ~~recourse to, those accounts and no claim against, or recourse~~
832 ~~to, the account referred to in sub-sub-subparagraph a.(III).~~
833 ~~Creditors of the Florida Windstorm Underwriting Association have~~
834 ~~a claim against, and recourse to, the account referred to in~~
835 ~~sub-sub-subparagraph a.(III) and no claim against, or recourse~~
836 ~~to, the accounts referred to in sub-sub-subparagraphs a.(I) and~~
837 ~~(II).~~

838 ~~d. Revenues, assets, liabilities, losses, and expenses not~~
839 ~~attributable to particular accounts shall be prorated among the~~
840 ~~accounts.~~

841 ~~e. The Legislature finds that the revenues of the~~
842 ~~corporation are revenues that are necessary to meet the~~
843 ~~requirements set forth in documents authorizing the issuance of~~
844 ~~bonds under this subsection.~~

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

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

848 ~~a. After accounting for the Citizens policyholder surcharge~~
849 ~~imposed under sub-subparagraph j., if the remaining projected~~
850 ~~deficit incurred in the coastal account in a particular calendar~~
851 ~~year:~~



975616

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

857 ~~(II) Exceeds 2 percent of the aggregate statewide direct~~
858 ~~written premium for the subject lines of business for the prior~~
859 ~~calendar year, the corporation shall levy regular assessments on~~
860 ~~assessable insurers under paragraph (q) and on assessable~~
861 ~~insureds in an amount equal to the greater of 2 percent of the~~
862 ~~projected deficit or 2 percent of the aggregate statewide direct~~
863 ~~written premium for the subject lines of business for the prior~~
864 ~~calendar year. Any remaining projected deficit shall be~~
865 ~~recovered through emergency assessments under sub-subparagraph~~
866 ~~e.~~

867 ~~b. Each assessable insurer's share of the amount being~~
868 ~~assessed under sub-subparagraph a. must be in the proportion~~
869 ~~that the assessable insurer's direct written premium for the~~
870 ~~subject lines of business for the year preceding the assessment~~
871 ~~bears to the aggregate statewide direct written premium for the~~
872 ~~subject lines of business for that year. The assessment~~
873 ~~percentage applicable to each assessable insured is the ratio of~~
874 ~~the amount being assessed under sub-subparagraph a. to the~~
875 ~~aggregate statewide direct written premium for the subject lines~~
876 ~~of business for the prior year. Assessments levied by the~~
877 ~~corporation on assessable insurers under sub-subparagraph a.~~
878 ~~must be paid as required by the corporation's plan of operation~~
879 ~~and paragraph (q). Assessments levied by the corporation on~~
880 ~~assessable insureds under sub-subparagraph a. shall be collected~~



975616

881 ~~by the surplus lines agent at the time the surplus lines agent~~
882 ~~collects the surplus lines tax required by s. 626.932, and paid~~
883 ~~to the Florida Surplus Lines Service Office at the time the~~
884 ~~surplus lines agent pays the surplus lines tax to that office.~~
885 ~~Upon receipt of regular assessments from surplus lines agents,~~
886 ~~the Florida Surplus Lines Service Office shall transfer the~~
887 ~~assessments directly to the corporation as determined by the~~
888 ~~corporation.~~

889 ~~e. The corporation may not levy regular assessments under~~
890 ~~paragraph (q) pursuant to sub-subparagraph a. or sub-~~
891 ~~subparagraph b. if the three separate accounts in sub-sub-~~
892 ~~subparagraphs 2.a.(I)-(III) have been consolidated into the~~
893 ~~Citizens account pursuant to sub-subparagraph 2.b. However, the~~
894 ~~outstanding balance of any regular assessment levied by the~~
895 ~~corporation before establishment of the Citizens account remains~~
896 ~~payable to the corporation.~~

897 ~~b.d.~~ After accounting for the Citizens policyholder
898 surcharge imposed under sub-subparagraph a. j., the remaining
899 projected deficits in the Citizens ~~personal lines~~ account and in
900 ~~the commercial lines account~~ in a particular calendar year shall
901 be recovered through emergency assessments under sub-
902 subparagraph c. e.

903 ~~c.e.~~ Upon a determination by the board of governors that a
904 projected deficit in the Citizens ~~an~~ account exceeds the amount
905 that is expected to be recovered through surcharges ~~regular~~
906 ~~assessments under sub-subparagraph a., plus the amount that is~~
907 ~~expected to be recovered through surcharges under sub-~~
908 ~~subparagraph j.~~, the board, after verification by the office,
909 shall levy emergency assessments for as many years as necessary



975616

910 to cover the deficits, to be collected by assessable insurers
911 and the corporation and collected from assessable insureds upon
912 issuance or renewal of policies for subject lines of business,
913 excluding National Flood Insurance Program policies. The amount
914 collected in a particular year must be a uniform percentage of
915 that year's direct written premium for subject lines of business
916 and the Citizens account ~~all accounts of the corporation,~~
917 excluding National Flood Insurance Program policy premiums, as
918 annually determined by the board and verified by the office. The
919 office shall verify the arithmetic calculations involved in the
920 board's determination within 30 days after receipt of the
921 information on which the determination was based. The office
922 shall notify assessable insurers and the Florida Surplus Lines
923 Service Office of the date on which assessable insurers shall
924 begin to collect and assessable insureds shall begin to pay such
925 assessment. The date must be at least 90 days after the date the
926 corporation levies emergency assessments pursuant to this sub-
927 subparagraph. Notwithstanding any other ~~provision of~~ law, the
928 corporation and each assessable insurer that writes subject
929 lines of business shall collect emergency assessments from its
930 policyholders without such obligation being affected by any
931 credit, limitation, exemption, or deferment. Emergency
932 assessments levied by the corporation on assessable insureds
933 shall be collected by the surplus lines agent at the time the
934 surplus lines agent collects the surplus lines tax required by
935 s. 626.932 and paid to the Florida Surplus Lines Service Office
936 at the time the surplus lines agent pays the surplus lines tax
937 to that office. The emergency assessments collected shall be
938 transferred directly to the corporation on a periodic basis as



975616

939 determined by the corporation and held by the corporation solely
940 in the Citizens ~~applicable~~ account. The aggregate amount of
941 emergency assessments levied for the Citizens ~~an~~ account in any
942 calendar year may be less than but may not exceed the greater of
943 10 percent of the amount needed to cover the deficit, plus
944 interest, fees, commissions, required reserves, and other costs
945 associated with financing the original deficit, or 10 percent of
946 the aggregate statewide direct written premium for subject lines
947 of business and the Citizens account ~~all accounts~~ of the
948 corporation for the prior year, plus interest, fees,
949 commissions, required reserves, and other costs associated with
950 financing the deficit.

951 ~~d.f.~~ The corporation may pledge the proceeds of
952 assessments, projected recoveries from the Florida Hurricane
953 Catastrophe Fund, other insurance and reinsurance recoverables,
954 policyholder surcharges and other surcharges, and other funds
955 available to the corporation as the source of revenue for and to
956 secure bonds issued under paragraph (q), bonds or other
957 indebtedness issued under subparagraph (c)3., or lines of credit
958 or other financing mechanisms issued or created under this
959 subsection, or to retire any other debt incurred as a result of
960 deficits or events giving rise to deficits, or in any other way
961 that the board determines will efficiently recover such
962 deficits. The purpose of the lines of credit or other financing
963 mechanisms is to provide additional resources to assist the
964 corporation in covering claims and expenses attributable to a
965 catastrophe. As used in this subsection, the term "assessments"
966 includes emergency ~~regular~~ assessments under sub-subparagraph c.
967 ~~a. or subparagraph (q)1. and emergency assessments under sub-~~



975616

968 ~~subparagraph e.~~ Emergency assessments collected under sub-
969 subparagraph c. ~~e.~~ are not part of an insurer's rates, are not
970 premium, and are not subject to premium tax, fees, or
971 commissions; however, failure to pay the emergency assessment
972 shall be treated as failure to pay premium. The emergency
973 assessments shall continue as long as any bonds issued or other
974 indebtedness incurred with respect to a deficit for which the
975 assessment was imposed remain outstanding, unless adequate
976 provision has been made for the payment of such bonds or other
977 indebtedness pursuant to the documents governing such bonds or
978 indebtedness.

979 ~~e.g.~~ As used in this subsection and for purposes of any
980 deficit incurred on or after January 25, 2007, the term "subject
981 lines of business" means insurance written by assessable
982 insurers or procured by assessable insureds for all property and
983 casualty lines of business in this state, but not including
984 workers' compensation or medical malpractice. As used in this
985 sub-subparagraph, the term "property and casualty lines of
986 business" includes all lines of business identified on Form 2,
987 Exhibit of Premiums and Losses, in the annual statement required
988 of authorized insurers under s. 624.424 and any rule adopted
989 under this section, except for those lines identified as
990 accident and health insurance and except for policies written
991 under the National Flood Insurance Program or the Federal Crop
992 Insurance Program. For purposes of this sub-subparagraph, the
993 term "workers' compensation" includes both workers' compensation
994 insurance and excess workers' compensation insurance.

995 ~~f.h.~~ The Florida Surplus Lines Service Office shall
996 annually determine ~~annually~~ the aggregate statewide written



975616

997 premium in subject lines of business procured by assessable
998 insureds and report that information to the corporation in a
999 form and at a time the corporation specifies to ensure that the
1000 corporation can meet the requirements of this subsection and the
1001 corporation's financing obligations.

1002 ~~g.i.~~ The Florida Surplus Lines Service Office shall verify
1003 the proper application by surplus lines agents of assessment
1004 percentages for ~~regular assessments and~~ emergency assessments
1005 levied under this subparagraph on assessable insureds and assist
1006 the corporation in ensuring the accurate, timely collection and
1007 payment of assessments by surplus lines agents as required by
1008 the corporation.

1009 ~~j.~~ Upon determination by the board of governors that an
1010 account has a projected deficit, the board shall levy a Citizens
1011 policyholder surcharge against all policyholders of the
1012 corporation.

1013 ~~(I)~~ The surcharge shall be levied as a uniform percentage
1014 of the premium for the policy of up to 15 percent of such
1015 premium, which funds shall be used to offset the deficit.

1016 ~~(II)~~ The surcharge is payable upon cancellation or
1017 termination of the policy, upon renewal of the policy, or upon
1018 issuance of a new policy by the corporation within the first 12
1019 months after the date of the levy or the period of time
1020 necessary to fully collect the surcharge amount.

1021 ~~(III)~~ The corporation may not levy any regular assessments
1022 under paragraph (q) pursuant to sub-subparagraph a. or sub-
1023 subparagraph b. with respect to a particular year's deficit
1024 until the corporation has first levied the full amount of the
1025 surcharge authorized by this sub-subparagraph.



975616

1026 ~~(IV) The surcharge is not considered premium and is not~~
1027 ~~subject to commissions, fees, or premium taxes. However, failure~~
1028 ~~to pay the surcharge shall be treated as failure to pay premium.~~

1029 ~~h.k.~~ If the amount of any assessments or surcharges
1030 collected from corporation policyholders, assessable insurers or
1031 their policyholders, or assessable insureds exceeds the amount
1032 of the deficits, such excess amounts shall be remitted to and
1033 retained by the corporation in a reserve to be used by the
1034 corporation, as determined by the board of governors and
1035 approved by the office, to pay claims or reduce any past,
1036 present, or future plan-year deficits or to reduce outstanding
1037 debt.

1038 ~~4. The Citizens account, if established by the corporation~~
1039 ~~pursuant to sub-subparagraph 2.b., is authorized to provide:~~

1040 ~~a. Personal residential policies that provide~~
1041 ~~comprehensive, multiperil coverage on risks that are not located~~
1042 ~~in areas eligible for coverage by the Florida Windstorm~~
1043 ~~Underwriting Association, as those areas were defined on January~~
1044 ~~1, 2002, and for policies that do not provide coverage for the~~
1045 ~~peril of wind on risks that are located in such areas;~~

1046 ~~b. Commercial residential and commercial nonresidential~~
1047 ~~policies that provide coverage for basic property perils on~~
1048 ~~risks that are not located in areas eligible for coverage by the~~
1049 ~~Florida Windstorm Underwriting Association, as those areas were~~
1050 ~~defined on January 1, 2002, and for policies that do not provide~~
1051 ~~coverage for the peril of wind on risks that are located in such~~
1052 ~~areas; and~~

1053 ~~e. Personal residential policies and commercial residential~~
1054 ~~and commercial nonresidential property policies that provide~~



975616

1055 ~~coverage for the peril of wind on risks that are located in~~
1056 ~~areas eligible for coverage by the Florida Windstorm~~
1057 ~~Underwriting Association, as those areas were defined on January~~
1058 ~~1, 2002. The corporation may offer policies that provide~~
1059 ~~multi-peril coverage and shall offer policies that provide~~
1060 ~~coverage only for the peril of wind for risks located in areas~~
1061 ~~eligible for coverage by the Florida Windstorm Underwriting~~
1062 ~~Association, as those areas were defined on January 1, 2002. The~~
1063 ~~corporation may not offer new commercial residential policies~~
1064 ~~providing multi-peril coverage, but shall continue to offer~~
1065 ~~commercial residential wind-only policies, and may offer~~
1066 ~~commercial residential policies excluding wind. However, the~~
1067 ~~corporation may continue to renew a commercial residential~~
1068 ~~multi-peril policy on a building that was insured by the~~
1069 ~~corporation on June 30, 2014, under a multi-peril policy. In~~
1070 ~~issuing multi-peril coverage under this sub-subparagraph, the~~
1071 ~~corporation may use its approved policy forms and rates for~~
1072 ~~risks located in areas not eligible for coverage by the Florida~~
1073 ~~Windstorm Underwriting Association as those areas were defined~~
1074 ~~on January 1, 2002, and for policies that do not provide~~
1075 ~~coverage for the peril of wind on risks that are located in such~~
1076 ~~areas. An applicant or insured who is eligible to purchase a~~
1077 ~~multi-peril policy from the corporation may purchase a multi-peril~~
1078 ~~policy from an authorized insurer without prejudice to the~~
1079 ~~applicant's or insured's eligibility to prospectively purchase a~~
1080 ~~policy that provides coverage only for the peril of wind from~~
1081 ~~the corporation. An applicant or insured who is eligible for a~~
1082 ~~corporation policy that provides coverage only for the peril of~~
1083 ~~wind may elect to purchase or retain such policy and also~~



975616

1084 ~~purchase or retain coverage excluding wind from an authorized~~
1085 ~~insurer without prejudice to the applicant's or insured's~~
1086 ~~eligibility to prospectively purchase a policy that provides~~
1087 ~~multi-peril coverage from the corporation. The following~~
1088 ~~policies, which provide coverage only for the peril of wind,~~
1089 ~~must also include quota share primary insurance under~~
1090 ~~subparagraph (c)2.: Personal residential policies and commercial~~
1091 ~~residential and commercial nonresidential property policies that~~
1092 ~~provide coverage for the peril of wind on risks that are located~~
1093 ~~in areas eligible for coverage by the Florida Windstorm~~
1094 ~~Underwriting Association, as those areas were defined on January~~
1095 ~~1, 2002; policies that provide multi-peril coverage, if offered~~
1096 ~~by the corporation, and policies that provide coverage only for~~
1097 ~~the peril of wind for risks located in areas eligible for~~
1098 ~~coverage by the Florida Windstorm Underwriting Association, as~~
1099 ~~those areas were defined on January 1, 2002; commercial~~
1100 ~~residential wind-only policies; commercial residential policies~~
1101 ~~excluding wind, if offered by the corporation; and commercial~~
1102 ~~residential multi-peril policies on a building that was insured~~
1103 ~~by the corporation on June 30, 2014. The area eligible for~~
1104 ~~coverage with the corporation under this sub-subparagraph~~
1105 ~~includes the area within Port Canaveral, which is bordered on~~
1106 ~~the south by the City of Cape Canaveral, bordered on the west by~~
1107 ~~the Banana River, and bordered on the north by Federal~~
1108 ~~Government property.~~

1109 ~~5. With respect to a deficit in the Citizens account:~~
1110 ~~a. Upon a determination by the board of governors that the~~
1111 ~~Citizens account has a projected deficit, the board shall levy a~~
1112 ~~Citizens policyholder surcharge against all policyholders of the~~



975616

1113 ~~corporation.~~

1114 ~~(I) The surcharge shall be levied as a uniform percentage~~
1115 ~~of the premium for the policy of up to 15 percent of such~~
1116 ~~premium, which funds shall be used to offset the deficit.~~

1117 ~~(II) The surcharge is payable upon cancellation or~~
1118 ~~termination of the policy, upon renewal of the policy, or upon~~
1119 ~~issuance of a new policy by the corporation within the first 12~~
1120 ~~months after the date of the levy or the period of time~~
1121 ~~necessary to fully collect the surcharge amount.~~

1122 ~~(III) The surcharge is not considered premium and is not~~
1123 ~~subject to commissions, fees, or premium taxes. However, failure~~
1124 ~~to pay the surcharge shall be treated as failure to pay premium.~~

1125 ~~b. After accounting for the Citizens policyholder surcharge~~
1126 ~~imposed under sub-subparagraph a., the remaining projected~~
1127 ~~deficit incurred in the Citizens account in a particular~~
1128 ~~calendar year shall be recovered through emergency assessments~~
1129 ~~under sub-subparagraph c.~~

1130 ~~e. Upon a determination by the board of governors that a~~
1131 ~~projected deficit in the Citizens account exceeds the amount~~
1132 ~~that is expected to be recovered through surcharges under sub-~~
1133 ~~subparagraph a., the board, after verification by the office,~~
1134 ~~shall levy emergency assessments for as many years as necessary~~
1135 ~~to cover the deficits, to be collected by assessable insurers~~
1136 ~~and the corporation and collected from assessable insureds upon~~
1137 ~~issuance or renewal of policies for subject lines of business,~~
1138 ~~excluding National Flood Insurance Program policies. The amount~~
1139 ~~collected in a particular year must be a uniform percentage of~~
1140 ~~that year's direct written premium for subject lines of business~~
1141 ~~and the Citizens account, National Flood Insurance Program~~



975616

1142 ~~policy premiums, as annually determined by the board and~~
1143 ~~verified by the office. The office shall verify the arithmetic~~
1144 ~~calculations involved in the board's determination within 30~~
1145 ~~days after receipt of the information on which the determination~~
1146 ~~was based. The office shall notify assessable insurers and the~~
1147 ~~Florida Surplus Lines Service Office of the date on which~~
1148 ~~assessable insurers shall begin to collect and assessable~~
1149 ~~insureds shall begin to pay such assessment. The date must be at~~
1150 ~~least 90 days after the date the corporation levies emergency~~
1151 ~~assessments pursuant to this sub-subparagraph. Notwithstanding~~
1152 ~~any other law, the corporation and each assessable insurer that~~
1153 ~~writes subject lines of business shall collect emergency~~
1154 ~~assessments from its policyholders without such obligation being~~
1155 ~~affected by any credit, limitation, exemption, or deferment.~~
1156 ~~Emergency assessments levied by the corporation on assessable~~
1157 ~~insureds shall be collected by the surplus lines agent at the~~
1158 ~~time the surplus lines agent collects the surplus lines tax~~
1159 ~~required by s. 626.932 and paid to the Florida Surplus Lines~~
1160 ~~Service Office at the time the surplus lines agent pays the~~
1161 ~~surplus lines tax to that office. The emergency assessments~~
1162 ~~collected shall be transferred directly to the corporation on a~~
1163 ~~periodic basis as determined by the corporation and held by the~~
1164 ~~corporation solely in the Citizens account. The aggregate amount~~
1165 ~~of emergency assessments levied for the Citizens account in any~~
1166 ~~calendar year may be less than, but may not exceed the greater~~
1167 ~~of, 10 percent of the amount needed to cover the deficit, plus~~
1168 ~~interest, fees, commissions, required reserves, and other costs~~
1169 ~~associated with financing the original deficit or 10 percent of~~
1170 ~~the aggregate statewide direct written premium for subject lines~~



975616

1171 ~~of business and the Citizens accounts for the prior year, plus~~
1172 ~~interest, fees, commissions, required reserves, and other costs~~
1173 ~~associated with financing the deficit.~~

1174 ~~d. The corporation may pledge the proceeds of assessments,~~
1175 ~~projected recoveries from the Florida Hurricane Catastrophe~~
1176 ~~Fund, other insurance and reinsurance recoverables, policyholder~~
1177 ~~surcharges and other surcharges, and other funds available to~~
1178 ~~the corporation as the source of revenue for and to secure bonds~~
1179 ~~issued under paragraph (q), bonds or other indebtedness issued~~
1180 ~~under subparagraph (c)3., or lines of credit or other financing~~
1181 ~~mechanisms issued or created under this subsection; or to retire~~
1182 ~~any other debt incurred as a result of deficits or events giving~~
1183 ~~rise to deficits, or in any other way that the board determines~~
1184 ~~will efficiently recover such deficits. The purpose of the lines~~
1185 ~~of credit or other financing mechanisms is to provide additional~~
1186 ~~resources to assist the corporation in covering claims and~~
1187 ~~expenses attributable to a catastrophe. As used in this~~
1188 ~~subsection, the term "assessments" includes emergency~~
1189 ~~assessments under sub-subparagraph c. Emergency assessments~~
1190 ~~collected under sub-subparagraph c. are not part of an insurer's~~
1191 ~~rates, are not premium, and are not subject to premium tax,~~
1192 ~~fees, or commissions; however, failure to pay the emergency~~
1193 ~~assessment shall be treated as failure to pay premium. The~~
1194 ~~emergency assessments shall continue as long as any bonds issued~~
1195 ~~or other indebtedness incurred with respect to a deficit for~~
1196 ~~which the assessment was imposed remain outstanding, unless~~
1197 ~~adequate provision has been made for the payment of such bonds~~
1198 ~~or other indebtedness pursuant to the documents governing such~~
1199 ~~bonds or indebtedness.~~



975616

1200 ~~e. As used in this subsection and for purposes of any~~
1201 ~~deficit incurred on or after January 25, 2007, the term "subject~~
1202 ~~lines of business" means insurance written by assessable~~
1203 ~~insurers or procured by assessable insureds for all property and~~
1204 ~~casualty lines of business in this state, but not including~~
1205 ~~workers' compensation or medical malpractice. As used in this~~
1206 ~~sub-subparagraph, the term "property and casualty lines of~~
1207 ~~business" includes all lines of business identified on Form 2,~~
1208 ~~Exhibit of Premiums and Losses, in the annual statement required~~
1209 ~~of authorized insurers under s. 624.424 and any rule adopted~~
1210 ~~under this section, except for those lines identified as~~
1211 ~~accident and health insurance and except for policies written~~
1212 ~~under the National Flood Insurance Program or the Federal Crop~~
1213 ~~Insurance Program. For purposes of this sub-subparagraph, the~~
1214 ~~term "workers' compensation" includes both workers' compensation~~
1215 ~~insurance and excess workers' compensation insurance.~~

1216 ~~f. The Florida Surplus Lines Service Office shall annually~~
1217 ~~determine the aggregate statewide written premium in subject~~
1218 ~~lines of business procured by assessable insureds and report~~
1219 ~~that information to the corporation in a form and at a time the~~
1220 ~~corporation specifies to ensure that the corporation can meet~~
1221 ~~the requirements of this subsection and the corporation's~~
1222 ~~financing obligations.~~

1223 ~~g. The Florida Surplus Lines Service Office shall verify~~
1224 ~~the proper application by surplus lines agents of assessment~~
1225 ~~percentages for emergency assessments levied under this~~
1226 ~~subparagraph on assessable insureds and assist the corporation~~
1227 ~~in ensuring the accurate, timely collection and payment of~~
1228 ~~assessments by surplus lines agents as required by the~~



975616

1229 ~~corporation.~~

1230 ~~h. If the amount of any assessments or surcharges collected~~
1231 ~~from corporation policyholders, assessable insurers or their~~
1232 ~~policyholders, or assessable insureds exceeds the amount of the~~
1233 ~~deficits, such excess amounts shall be remitted to and retained~~
1234 ~~by the corporation in a reserve to be used by the corporation,~~
1235 ~~as determined by the board of governors and approved by the~~
1236 ~~office, to pay claims or reduce any past, present, or future~~
1237 ~~plan-year deficits or to reduce outstanding debt.~~

1238 (c) The corporation's plan of operation:

1239 1. Must provide for adoption of residential property and
1240 casualty insurance policy forms and commercial residential and
1241 nonresidential property insurance forms, which must be approved
1242 by the office before use. The corporation shall adopt the
1243 following policy forms:

1244 a. Standard personal lines policy forms that are
1245 comprehensive multiperil policies providing full coverage of a
1246 residential property equivalent to the coverage provided in the
1247 private insurance market under an HO-3, HO-4, or HO-6 policy.

1248 b. Basic personal lines policy forms that are policies
1249 similar to an HO-8 policy or a dwelling fire policy that provide
1250 coverage meeting the requirements of the secondary mortgage
1251 market, but which is more limited than the coverage under a
1252 standard policy.

1253 c. Commercial lines residential and nonresidential policy
1254 forms that are generally similar to the basic perils of full
1255 coverage obtainable for commercial residential structures and
1256 commercial nonresidential structures in the admitted voluntary
1257 market.



975616

1258 d. Personal lines and commercial lines residential property
1259 insurance forms that cover the peril of wind only. The forms are
1260 applicable only to residential properties located in areas
1261 eligible for coverage by the Florida Windstorm Underwriting
1262 Association, as those areas were defined on January 1, 2002.

1263 e. Commercial lines nonresidential property insurance forms
1264 that cover the peril of wind only. The forms are applicable only
1265 to nonresidential properties located in areas eligible for
1266 coverage by the Florida Windstorm Underwriting Association, as
1267 those areas were defined on January 1, 2002.

1268 f. The corporation may adopt variations of the policy forms
1269 listed in sub-subparagraphs a.-e. which contain more restrictive
1270 coverage.

1271 g. The corporation shall offer a basic personal lines
1272 policy similar to an HO-8 policy with dwelling repair based on
1273 common construction materials and methods.

1274 2. Must provide that the corporation adopt a program in
1275 which the corporation and authorized insurers enter into quota
1276 share primary insurance agreements for hurricane coverage, as
1277 defined in s. 627.4025(2)(a), for eligible risks, and adopt
1278 property insurance forms for eligible risks which cover the
1279 peril of wind only.

1280 a. As used in this subsection, the term:

1281 (I) "Approved surplus lines insurer" means an eligible
1282 surplus lines insurer:

1283 (A) That has a financial strength rating of "A" or higher
1284 from A.M. Best Company;

1285 (B) That has a personal lines residential risk program that
1286 is managed by a Florida resident surplus lines broker; and



975616

1287 (C) That offers coverage to applicants for new coverage
1288 from the corporation or current policyholders of the corporation
1289 through a take-out plan approved by the office.

1290 (III) "Primary residence" means the dwelling that is the
1291 policyholder's primary home or is a rental property that is the
1292 primary home of the tenant, and which the policyholder or tenant
1293 occupies for more than 9 months of each year.

1294 ~~(IV)~~ ~~(I)~~ "Quota share primary insurance" means an
1295 arrangement in which the primary hurricane coverage of an
1296 eligible risk is provided in specified percentages by the
1297 corporation and an authorized insurer. The corporation and
1298 authorized insurer are each solely responsible for a specified
1299 percentage of hurricane coverage of an eligible risk as set
1300 forth in a quota share primary insurance agreement between the
1301 corporation and an authorized insurer and the insurance
1302 contract. The responsibility of the corporation or authorized
1303 insurer to pay its specified percentage of hurricane losses of
1304 an eligible risk, as set forth in the agreement, may not be
1305 altered by the inability of the other party to pay its specified
1306 percentage of losses. Eligible risks that are provided hurricane
1307 coverage through a quota share primary insurance arrangement
1308 must be provided policy forms that set forth the obligations of
1309 the corporation and authorized insurer under the arrangement,
1310 clearly specify the percentages of quota share primary insurance
1311 provided by the corporation and authorized insurer, and
1312 conspicuously and clearly state that the authorized insurer and
1313 the corporation may not be held responsible beyond their
1314 specified percentage of coverage of hurricane losses.

1315 (II) "Eligible risks" means personal lines residential and



975616

1316 commercial lines residential risks that meet the underwriting
1317 criteria of the corporation and are located in areas that were
1318 eligible for coverage by the Florida Windstorm Underwriting
1319 Association on January 1, 2002.

1320 b. The corporation may enter into quota share primary
1321 insurance agreements with authorized insurers at corporation
1322 coverage levels of 90 percent and 50 percent.

1323 c. If the corporation determines that additional coverage
1324 levels are necessary to maximize participation in quota share
1325 primary insurance agreements by authorized insurers, the
1326 corporation may establish additional coverage levels. However,
1327 the corporation's quota share primary insurance coverage level
1328 may not exceed 90 percent.

1329 d. Any quota share primary insurance agreement entered into
1330 between an authorized insurer and the corporation must provide
1331 for a uniform specified percentage of coverage of hurricane
1332 losses, by county or territory as set forth by the corporation
1333 board, for all eligible risks of the authorized insurer covered
1334 under the agreement.

1335 e. Any quota share primary insurance agreement entered into
1336 between an authorized insurer and the corporation is subject to
1337 review and approval by the office. However, such agreement shall
1338 be authorized only as to insurance contracts entered into
1339 between an authorized insurer and an insured who is already
1340 insured by the corporation for wind coverage.

1341 f. For all eligible risks covered under quota share primary
1342 insurance agreements, the exposure and coverage levels for both
1343 the corporation and authorized insurers shall be reported by the
1344 corporation to the Florida Hurricane Catastrophe Fund. For all



975616

1345 policies of eligible risks covered under such agreements, the
1346 corporation and the authorized insurer must maintain complete
1347 and accurate records for the purpose of exposure and loss
1348 reimbursement audits as required by fund rules. The corporation
1349 and the authorized insurer shall each maintain duplicate copies
1350 of policy declaration pages and supporting claims documents.

1351 g. The corporation board shall establish in its plan of
1352 operation standards for quota share agreements which ensure that
1353 there is no discriminatory application among insurers as to the
1354 terms of the agreements, pricing of the agreements, incentive
1355 provisions if any, and consideration paid for servicing policies
1356 or adjusting claims.

1357 h. The quota share primary insurance agreement between the
1358 corporation and an authorized insurer must set forth the
1359 specific terms under which coverage is provided, including, but
1360 not limited to, the sale and servicing of policies issued under
1361 the agreement by the insurance agent of the authorized insurer
1362 producing the business, the reporting of information concerning
1363 eligible risks, the payment of premium to the corporation, and
1364 arrangements for the adjustment and payment of hurricane claims
1365 incurred on eligible risks by the claims adjuster and personnel
1366 of the authorized insurer. Entering into a quota sharing
1367 insurance agreement between the corporation and an authorized
1368 insurer is voluntary and at the discretion of the authorized
1369 insurer.

1370 3. May provide that the corporation may employ or otherwise
1371 contract with individuals or other entities to provide
1372 administrative or professional services that may be appropriate
1373 to effectuate the plan. The corporation may borrow funds by



975616

1374 issuing bonds or by incurring other indebtedness, and shall have
1375 other powers reasonably necessary to effectuate the requirements
1376 of this subsection, including, without limitation, the power to
1377 issue bonds and incur other indebtedness in order to refinance
1378 outstanding bonds or other indebtedness. The corporation may
1379 seek judicial validation of its bonds or other indebtedness
1380 under chapter 75. The corporation may issue bonds or incur other
1381 indebtedness, or have bonds issued on its behalf by a unit of
1382 local government pursuant to subparagraph (q)2. in the absence
1383 of a hurricane or other weather-related event, upon a
1384 determination by the corporation, subject to approval by the
1385 office, that such action would enable it to efficiently meet the
1386 financial obligations of the corporation and that such
1387 financings are reasonably necessary to effectuate the
1388 requirements of this subsection. The corporation may take all
1389 actions needed to facilitate tax-free status for such bonds or
1390 indebtedness, including formation of trusts or other affiliated
1391 entities. The corporation may pledge assessments, projected
1392 recoveries from the Florida Hurricane Catastrophe Fund, other
1393 reinsurance recoverables, policyholder surcharges and other
1394 surcharges, and other funds available to the corporation as
1395 security for bonds or other indebtedness. In recognition of s.
1396 10, Art. I of the State Constitution, prohibiting the impairment
1397 of obligations of contracts, it is the intent of the Legislature
1398 that no action be taken whose purpose is to impair any bond
1399 indenture or financing agreement or any revenue source committed
1400 by contract to such bond or other indebtedness.

1401 4. Must require that the corporation operate subject to the
1402 supervision and approval of a board of governors consisting of



975616

1403 nine individuals who are residents of this state and who are
1404 from different geographical areas of the state, one of whom is
1405 appointed by the Governor and serves solely to advocate on
1406 behalf of the consumer. The appointment of a consumer
1407 representative by the Governor is deemed to be within the scope
1408 of the exemption provided in s. 112.313(7)(b) and is in addition
1409 to the appointments authorized under sub-subparagraph a.

1410 a. The Governor, the Chief Financial Officer, the President
1411 of the Senate, and the Speaker of the House of Representatives
1412 shall each appoint two members of the board. At least one of the
1413 two members appointed by each appointing officer must have
1414 demonstrated expertise in insurance and be deemed to be within
1415 the scope of the exemption provided in s. 112.313(7)(b). The
1416 Chief Financial Officer shall designate one of the appointees as
1417 chair. All board members serve at the pleasure of the appointing
1418 officer. All members of the board are subject to removal at will
1419 by the officers who appointed them. All board members, including
1420 the chair, must be appointed to serve for 3-year terms beginning
1421 annually on a date designated by the plan. However, for the
1422 first term beginning on or after July 1, 2009, each appointing
1423 officer shall appoint one member of the board for a 2-year term
1424 and one member for a 3-year term. A board vacancy shall be
1425 filled for the unexpired term by the appointing officer. The
1426 Chief Financial Officer shall appoint a technical advisory group
1427 to provide information and advice to the board in connection
1428 with the board's duties under this subsection. The executive
1429 director and senior managers of the corporation shall be engaged
1430 by the board and serve at the pleasure of the board. Any
1431 executive director appointed on or after July 1, 2006, is



975616

1432 subject to confirmation by the Senate. The executive director is
1433 responsible for employing other staff as the corporation may
1434 require, subject to review and concurrence by the board.

1435 b. The board shall create a Market Accountability Advisory
1436 Committee to assist the corporation in developing awareness of
1437 its rates and its customer and agent service levels in
1438 relationship to the voluntary market insurers writing similar
1439 coverage.

1440 (I) The members of the advisory committee consist of the
1441 following 11 persons, one of whom must be elected chair by the
1442 members of the committee: four representatives, one appointed by
1443 the Florida Association of Insurance Agents, one by the Florida
1444 Association of Insurance and Financial Advisors, one by the
1445 Professional Insurance Agents of Florida, and one by the Latin
1446 American Association of Insurance Agencies; three
1447 representatives appointed by the insurers with the three highest
1448 voluntary market share of residential property insurance
1449 business in the state; one representative from the Office of
1450 Insurance Regulation; one consumer appointed by the board who is
1451 insured by the corporation at the time of appointment to the
1452 committee; one representative appointed by the Florida
1453 Association of Realtors; and one representative appointed by the
1454 Florida Bankers Association. All members shall be appointed to
1455 3-year terms and may serve for consecutive terms.

1456 (II) The committee shall report to the corporation at each
1457 board meeting on insurance market issues which may include rates
1458 and rate competition with the voluntary market; service,
1459 including policy issuance, claims processing, and general
1460 responsiveness to policyholders, applicants, and agents; and



975616

1461 matters relating to depopulation.

1462 5. Must provide a procedure for determining the eligibility
1463 of a risk for coverage, as follows:

1464 a. Subject to s. 627.3517, with respect to personal lines
1465 residential risks that are primary residences, if the risk is
1466 offered coverage from an authorized insurer at the insurer's
1467 approved rate under a standard policy including wind coverage
1468 or, if consistent with the insurer's underwriting rules as filed
1469 with the office, a basic policy including wind coverage, for a
1470 new application to the corporation for coverage, the risk is not
1471 eligible for any policy issued by the corporation unless the
1472 premium for coverage from the authorized insurer is more than 20
1473 percent greater than the premium for comparable coverage from
1474 the corporation. Whenever an offer of coverage for a personal
1475 lines residential risk that is a primary residence is received
1476 for a policyholder of the corporation at renewal from an
1477 authorized insurer, if the offer is equal to or less than the
1478 corporation's renewal premium for comparable coverage, the risk
1479 is not eligible for coverage with the corporation for policies
1480 that renew before April 1, 2023; for policies that renew on or
1481 after that date, the risk is not eligible for coverage with the
1482 corporation unless the premium for coverage from the authorized
1483 insurer is more than 20 percent greater than the corporation's
1484 renewal premium for comparable coverage. If the risk is not able
1485 to obtain such offer, the risk is eligible for a standard policy
1486 including wind coverage or a basic policy including wind
1487 coverage issued by the corporation; however, if the risk could
1488 not be insured under a standard policy including wind coverage
1489 regardless of market conditions, the risk is eligible for a



975616

1490 basic policy including wind coverage unless rejected under
1491 subparagraph 8. The corporation shall determine the type of
1492 policy to be provided on the basis of objective standards
1493 specified in the underwriting manual and based on generally
1494 accepted underwriting practices. A policyholder removed from the
1495 corporation through an assumption agreement does not remain
1496 eligible for coverage from the corporation after the end of the
1497 policy term. However, any policy removed from the corporation
1498 through an assumption agreement remains on the corporation's
1499 policy forms through the end of the policy term. This sub-
1500 subparagraph applies only to risks that are primary residences.

1501 (I) If the risk accepts an offer of coverage through the
1502 market assistance plan or through a mechanism established by the
1503 corporation other than a plan established by s. 627.3518, before
1504 a policy is issued to the risk by the corporation or during the
1505 first 30 days of coverage by the corporation, and the producing
1506 agent who submitted the application to the plan or to the
1507 corporation is not currently appointed by the insurer, the
1508 insurer shall:

1509 (A) Pay to the producing agent of record of the policy for
1510 the first year, an amount that is the greater of the insurer's
1511 usual and customary commission for the type of policy written or
1512 a fee equal to the usual and customary commission of the
1513 corporation; or

1514 (B) Offer to allow the producing agent of record of the
1515 policy to continue servicing the policy for at least 1 year and
1516 offer to pay the agent the greater of the insurer's or the
1517 corporation's usual and customary commission for the type of
1518 policy written.



975616

1519
1520
1521
1522
1523
1524
1525
1526
1527
1528
1529
1530
1531
1532
1533
1534
1535
1536
1537
1538
1539
1540
1541
1542
1543
1544
1545
1546
1547

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

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

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

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

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

b. With respect to commercial lines residential risks, for a new application to the corporation for coverage, if the risk is offered coverage under a policy including wind coverage from an authorized insurer at its approved rate, the risk is not eligible for a policy issued by the corporation unless the premium for coverage from the authorized insurer is more than 20 percent greater than the premium for comparable coverage from the corporation. Whenever an offer of coverage for a commercial



975616

1548 lines residential risk is received for a policyholder of the
1549 corporation at renewal from an authorized insurer, the risk is
1550 not eligible for coverage with the corporation unless the
1551 premium for coverage from the authorized insurer is more than 20
1552 percent greater than the corporation's renewal premium for
1553 comparable coverage. If the risk is not able to obtain any such
1554 offer, the risk is eligible for a policy including wind coverage
1555 issued by the corporation. A policyholder removed from the
1556 corporation through an assumption agreement remains eligible for
1557 coverage from the corporation until the end of the policy term.
1558 However, any policy removed from the corporation through an
1559 assumption agreement remains on the corporation's policy forms
1560 through the end of the policy term.

1561 (I) If the risk accepts an offer of coverage through the
1562 market assistance plan or through a mechanism established by the
1563 corporation other than a plan established by s. 627.3518, before
1564 a policy is issued to the risk by the corporation or during the
1565 first 30 days of coverage by the corporation, and the producing
1566 agent who submitted the application to the plan or the
1567 corporation is not currently appointed by the insurer, the
1568 insurer shall:

1569 (A) Pay to the producing agent of record of the policy, for
1570 the first year, an amount that is the greater of the insurer's
1571 usual and customary commission for the type of policy written or
1572 a fee equal to the usual and customary commission of the
1573 corporation; or

1574 (B) Offer to allow the producing agent of record of the
1575 policy to continue servicing the policy for at least 1 year and
1576 offer to pay the agent the greater of the insurer's or the



975616

1577 corporation's usual and customary commission for the type of
1578 policy written.

1579

1580 If the producing agent is unwilling or unable to accept
1581 appointment, the new insurer shall pay the agent in accordance
1582 with sub-sub-sub-subparagraph (A).

1583 (II) If the corporation enters into a contractual agreement
1584 for a take-out plan, the producing agent of record of the
1585 corporation policy is entitled to retain any unearned commission
1586 on the policy, and the insurer shall:

1587 (A) Pay to the producing agent of record, for the first
1588 year, an amount that is the greater of the insurer's usual and
1589 customary commission for the type of policy written or a fee
1590 equal to the usual and customary commission of the corporation;
1591 or

1592 (B) Offer to allow the producing agent of record to
1593 continue servicing the policy for at least 1 year and offer to
1594 pay the agent the greater of the insurer's or the corporation's
1595 usual and customary commission for the type of policy written.

1596

1597 If the producing agent is unwilling or unable to accept
1598 appointment, the new insurer shall pay the agent in accordance
1599 with sub-sub-sub-subparagraph (A).

1600 c. For purposes of determining comparable coverage under
1601 sub-subparagraphs a. and b., the comparison must be based on
1602 those forms and coverages that are reasonably comparable. The
1603 corporation may rely on a determination of comparable coverage
1604 and premium made by the producing agent who submits the
1605 application to the corporation, made in the agent's capacity as



975616

1606 the corporation's agent. For purposes of comparing the premium
1607 for comparable coverage under sub-subparagraphs a. and b.,
1608 premium includes any surcharge or assessment that is actually
1609 applied to such policy. A comparison may be made solely of the
1610 premium with respect to the main building or structure only on
1611 the following basis: the same Coverage A or other building
1612 limits; the same percentage hurricane deductible that applies on
1613 an annual basis or that applies to each hurricane for commercial
1614 residential property; the same percentage of ordinance and law
1615 coverage, if the same limit is offered by both the corporation
1616 and the authorized insurer; the same mitigation credits, to the
1617 extent the same types of credits are offered both by the
1618 corporation and the authorized insurer; the same method for loss
1619 payment, such as replacement cost or actual cash value, if the
1620 same method is offered both by the corporation and the
1621 authorized insurer in accordance with underwriting rules; and
1622 any other form or coverage that is reasonably comparable as
1623 determined by the board. If an application is submitted to the
1624 corporation for wind-only coverage on a risk that is located in
1625 an area eligible for coverage by the Florida Windstorm
1626 Underwriting Association, as that area was defined on January 1,
1627 2002, the premium for the corporation's wind-only policy plus
1628 the premium for the ex-wind policy that is offered by an
1629 authorized insurer to the applicant must be compared to the
1630 premium for multiperil coverage offered by an authorized
1631 insurer, subject to the standards for comparison specified in
1632 this subparagraph. If the corporation or the applicant requests
1633 from the authorized insurer a breakdown of the premium of the
1634 offer by types of coverage so that a comparison may be made by



975616

1635 the corporation or its agent and the authorized insurer refuses
1636 or is unable to provide such information, the corporation may
1637 treat the offer as not being an offer of coverage from an
1638 authorized insurer at the insurer's approved rate. However,
1639 notwithstanding any other law, this sub-subparagraph does not
1640 apply to a personal lines residential policy that does not cover
1641 a primary residence.

1642 d. Subject to s. 627.3517, with respect to personal lines
1643 residential risks that are not primary residences, if the risk
1644 is offered coverage from an authorized insurer at the insurer's
1645 approved rate or from an approved surplus lines insurer at the
1646 rate approved by the office as part of such surplus lines
1647 insurer's take-out plan for a new application to the corporation
1648 for coverage, the risk is not eligible for any policy issued by
1649 the corporation. Whenever an offer of coverage for a personal
1650 lines residential risk that is not a primary residence is
1651 received for a policyholder of the corporation at renewal from
1652 an authorized insurer at the insurer's approved rate or an
1653 approved surplus lines insurer at the rate approved by the
1654 office as part of such insurer's take-out plan, the risk is not
1655 eligible for coverage with the corporation for policies that
1656 renew on or after July 1, 2024. If the risk is not able to
1657 obtain such offer, the risk is eligible for a standard policy
1658 including wind coverage or a basic policy including wind
1659 coverage issued by the corporation. If the risk could not be
1660 insured under a standard policy including wind coverage
1661 regardless of market conditions, the risk is eligible for a
1662 basic policy including wind coverage unless rejected under
1663 subparagraph 8. The corporation shall determine the type of



975616

1664 policy to be provided on the basis of objective standards
1665 specified in the underwriting manual and based on generally
1666 accepted underwriting practices. A policyholder removed from the
1667 corporation through an assumption agreement does not remain
1668 eligible for coverage from the corporation after the end of the
1669 policy term. However, any policy removed from the corporation
1670 through an assumption agreement remains on the corporation's
1671 policy forms through the end of the policy term.

1672 (I) If the risk accepts an offer of coverage through the
1673 market assistance plan or through a mechanism established by the
1674 corporation other than a plan established by s. 627.3518, before
1675 a policy is issued to the risk by the corporation or during the
1676 first 30 days of coverage by the corporation, and the producing
1677 agent who submitted the application to the plan or to the
1678 corporation is not currently appointed by the insurer, the
1679 insurer shall:

1680 (A) Pay to the producing agent of record of the policy, for
1681 the first year, an amount that is the greater of the insurer's
1682 usual and customary commission for the type of policy written or
1683 a fee equal to the usual and customary commission of the
1684 corporation; or

1685 (B) Offer to allow the producing agent of record of the
1686 policy to continue servicing the policy for at least 1 year and
1687 offer to pay the agent the greater of the insurer's or the
1688 corporation's usual and customary commission for the type of
1689 policy written.

1690
1691 If the producing agent is unwilling or unable to accept
1692 appointment, the new insurer shall pay the agent in accordance



975616

1693 with sub-sub-sub-subparagraph (A).
1694 (II) If the corporation enters into a contractual agreement
1695 for a take-out plan, the producing agent of record of the
1696 corporation policy is entitled to retain any unearned commission
1697 on the policy, and the insurer shall:
1698 (A) Pay to the producing agent of record, for the first
1699 year, an amount that is the greater of the insurer's usual and
1700 customary commission for the type of policy written or a fee
1701 equal to the usual and customary commission of the corporation;
1702 or
1703 (B) Offer to allow the producing agent of record to
1704 continue servicing the policy for at least 1 year and offer to
1705 pay the agent the greater of the insurer's or the corporation's
1706 usual and customary commission for the type of policy written.
1707
1708 If the producing agent is unwilling or unable to accept
1709 appointment, the new insurer shall pay the agent in accordance
1710 with sub-sub-sub-subparagraph (A).
1711 6. Must include rules for classifications of risks and
1712 rates.
1713 7. Must provide that if premium and investment income~~+~~
1714 ~~a.~~ for the Citizens ~~an~~ account, which are attributable to a
1715 particular calendar year, are in excess of projected losses and
1716 expenses for the Citizens account attributable to that year,
1717 such excess shall be held in surplus in the Citizens account.
1718 Such surplus must be available to defray deficits in the
1719 Citizens ~~that~~ account as to future years and used for that
1720 purpose before assessing assessable insurers and assessable
1721 insureds as to any calendar year~~;~~~~or~~



975616

1722 ~~b. For the Citizens account, if established by the~~
1723 ~~corporation, which are attributable to a particular calendar~~
1724 ~~year are in excess of projected losses and expenses for the~~
1725 ~~Citizens account attributable to that year, such excess shall be~~
1726 ~~held in surplus in the Citizens account. Such surplus must be~~
1727 ~~available to defray deficits in the Citizens account as to~~
1728 ~~future years and used for that purpose before assessing~~
1729 ~~assessable insurers and assessable insureds as to any calendar~~
1730 ~~year.~~

1731 8. Must provide objective criteria and procedures to be
1732 uniformly applied to all applicants in determining whether an
1733 individual risk is so hazardous as to be uninsurable. In making
1734 this determination and in establishing the criteria and
1735 procedures, the following must be considered:

1736 a. Whether the likelihood of a loss for the individual risk
1737 is substantially higher than for other risks of the same class;
1738 and

1739 b. Whether the uncertainty associated with the individual
1740 risk is such that an appropriate premium cannot be determined.

1741
1742 The acceptance or rejection of a risk by the corporation shall
1743 be construed as the private placement of insurance, and the
1744 provisions of chapter 120 do not apply.

1745 9. Must provide that the corporation make its best efforts
1746 to procure catastrophe reinsurance at reasonable rates, to cover
1747 its projected 100-year probable maximum loss as determined by
1748 the board of governors. If catastrophe reinsurance is not
1749 available at reasonable rates, the corporation need not purchase
1750 it, but the corporation shall include the costs of reinsurance



975616

1751 to cover its projected 100-year probable maximum loss in its
1752 rate calculations even if it does not purchase catastrophe
1753 reinsurance.

1754 10. The policies issued by the corporation must provide
1755 that if the corporation or the market assistance plan obtains an
1756 offer from an authorized insurer to cover the risk at its
1757 approved rates, the risk is no longer eligible for renewal
1758 through the corporation, except as otherwise provided in this
1759 subsection.

1760 11. Corporation policies and applications must include a
1761 notice that the corporation policy could, under this section, be
1762 replaced with a policy issued by an authorized insurer which
1763 does not provide coverage identical to the coverage provided by
1764 the corporation. The notice must also specify that acceptance of
1765 corporation coverage creates a conclusive presumption that the
1766 applicant or policyholder is aware of this potential.

1767 12. May establish, subject to approval by the office,
1768 different eligibility requirements and operational procedures
1769 for any line or type of coverage for any specified county or
1770 area if the board determines that such changes are justified due
1771 to the voluntary market being sufficiently stable and
1772 competitive in such area or for such line or type of coverage
1773 and that consumers who, in good faith, are unable to obtain
1774 insurance through the voluntary market through ordinary methods
1775 continue to have access to coverage from the corporation. If
1776 coverage is sought in connection with a real property transfer,
1777 the requirements and procedures may not provide an effective
1778 date of coverage later than the date of the closing of the
1779 transfer as established by the transferor, the transferee, and,



975616

1780 if applicable, the lender.
1781 ~~13. Must provide that:~~
1782 ~~a. With respect to the coastal account, any assessable~~
1783 ~~insurer with a surplus as to policyholders of \$25 million or~~
1784 ~~less writing 25 percent or more of its total countrywide~~
1785 ~~property insurance premiums in this state may petition the~~
1786 ~~office, within the first 90 days of each calendar year, to~~
1787 ~~qualify as a limited apportionment company. A regular assessment~~
1788 ~~levied by the corporation on a limited apportionment company for~~
1789 ~~a deficit incurred by the corporation for the coastal account~~
1790 ~~may be paid to the corporation on a monthly basis as the~~
1791 ~~assessments are collected by the limited apportionment company~~
1792 ~~from its insureds, but a limited apportionment company must~~
1793 ~~begin collecting the regular assessments not later than 90 days~~
1794 ~~after the regular assessments are levied by the corporation, and~~
1795 ~~the regular assessments must be paid in full within 15 months~~
1796 ~~after being levied by the corporation. A limited apportionment~~
1797 ~~company shall collect from its policyholders any emergency~~
1798 ~~assessment imposed under sub-subparagraph (b)3.e. The plan must~~
1799 ~~provide that, if the office determines that any regular~~
1800 ~~assessment will result in an impairment of the surplus of a~~
1801 ~~limited apportionment company, the office may direct that all or~~
1802 ~~part of such assessment be deferred as provided in subparagraph~~
1803 ~~(g)4. However, an emergency assessment to be collected from~~
1804 ~~policyholders under sub-subparagraph (b)3.e. may not be limited~~
1805 ~~or deferred; or~~
1806 ~~b. With respect to the Citizens account, if established by~~
1807 ~~the corporation pursuant to sub-subparagraph (b)2.b., any~~
1808 ~~assessable insurer with a surplus as to policyholders of \$25~~



975616

1809 ~~million or less and writing 25 percent or more of its total~~
1810 ~~countrywide property insurance premiums in this state may~~
1811 ~~petition the office, within the first 90 days of each calendar~~
1812 ~~year, to qualify as a limited apportionment company. A limited~~
1813 ~~apportionment company shall collect from its policyholders any~~
1814 ~~emergency assessment imposed under sub-subparagraph (b)5.c. An~~
1815 ~~emergency assessment to be collected from policyholders under~~
1816 ~~sub-subparagraph (b)5.c. may not be limited or deferred.~~

1817 ~~14.~~ Must provide that the corporation appoint as its
1818 licensed agents only those agents who throughout such
1819 appointments also hold an appointment as defined in s. 626.015
1820 by at least three insurers ~~an insurer~~ who are ~~is~~ authorized to
1821 write and are ~~is~~ actually writing or renewing personal lines
1822 residential property coverage, commercial residential property
1823 coverage, or commercial nonresidential property coverage within
1824 the state.

1825 ~~14.15.~~ Must provide a premium payment plan option to its
1826 policyholders which, at a minimum, allows for quarterly and
1827 semiannual payment of premiums. A monthly payment plan may, but
1828 is not required to, be offered.

1829 ~~15.16.~~ Must limit coverage on mobile homes or manufactured
1830 homes built before 1994 to actual cash value of the dwelling
1831 rather than replacement costs of the dwelling.

1832 ~~16.17.~~ Must provide coverage for manufactured or mobile
1833 home dwellings. Such coverage must also include the following
1834 attached structures:

1835 a. Screened enclosures that are aluminum framed or screened
1836 enclosures that are not covered by the same or substantially the
1837 same materials as those of the primary dwelling;



975616

1838 b. Carports that are aluminum or carports that are not
1839 covered by the same or substantially the same materials as those
1840 of the primary dwelling; and

1841 c. Patios that have a roof covering that is constructed of
1842 materials that are not the same or substantially the same
1843 materials as those of the primary dwelling.

1844
1845 The corporation shall make available a policy for mobile homes
1846 or manufactured homes for a minimum insured value of at least
1847 \$3,000.

1848 ~~17.18.~~ May provide such limits of coverage as the board
1849 determines, consistent with the requirements of this subsection.

1850 ~~18.19.~~ May require commercial property to meet specified
1851 hurricane mitigation construction features as a condition of
1852 eligibility for coverage.

1853 ~~19.20.~~ Must provide that new or renewal policies issued by
1854 the corporation on or after January 1, 2012, which cover
1855 sinkhole loss do not include coverage for any loss to
1856 appurtenant structures, driveways, sidewalks, decks, or patios
1857 that are directly or indirectly caused by sinkhole activity. The
1858 corporation shall exclude such coverage using a notice of
1859 coverage change, which may be included with the policy renewal,
1860 and not by issuance of a notice of nonrenewal of the excluded
1861 coverage upon renewal of the current policy.

1862 ~~20.a.21.a. As of January 1, 2012, unless the Citizens~~
1863 ~~account has been established pursuant to sub-subparagraph~~
1864 ~~(b)2.b.,~~ Must require that the agent obtain from an applicant
1865 for coverage from the corporation an acknowledgment signed by
1866 the applicant, which includes, at a minimum, the following



975616

1867 statement:

1868

1869

ACKNOWLEDGMENT OF POTENTIAL SURCHARGE

1870

AND ASSESSMENT LIABILITY:

1871

1872

1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON, MY POLICY COULD BE SUBJECT TO SURCHARGES AND ASSESSMENTS, WHICH WILL BE DUE AND PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE POLICY, AND THAT THE SURCHARGES AND ASSESSMENTS COULD BE AS HIGH AS 25 ~~45~~ PERCENT OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA LEGISLATURE.

1880

2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER SURCHARGE, WHICH COULD BE AS HIGH AS 15 ~~45~~ PERCENT OF MY PREMIUM, BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES ARE REGULATED AND APPROVED BY THE STATE.

1887

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

1891

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

1894

1895

~~b. The corporation must require, if it has established the~~



975616

1896 ~~Citizens account pursuant to sub-subparagraph (b)2.b., that the~~
1897 ~~agent obtain from an applicant for coverage from the corporation~~
1898 ~~the following acknowledgment signed by the applicant, which~~
1899 ~~includes, at a minimum, the following statement:~~

1900
1901 ~~ACKNOWLEDGMENT OF POTENTIAL SURCHARGE~~
1902 ~~AND ASSESSMENT LIABILITY:~~
1903

1904 ~~1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE~~
1905 ~~CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A~~
1906 ~~DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,~~
1907 ~~MY POLICY COULD BE SUBJECT TO SURCHARGES AND ASSESSMENTS, WHICH~~
1908 ~~WILL BE DUE AND PAYABLE UPON RENEWAL, CANCELLATION, OR~~
1909 ~~TERMINATION OF THE POLICY, AND THAT THE SURCHARGES AND~~
1910 ~~ASSESSMENTS COULD BE AS HIGH AS 25 PERCENT OF MY PREMIUM, OR A~~
1911 ~~DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA LEGISLATURE.~~

1912 ~~2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER~~
1913 ~~SURCHARGE, WHICH COULD BE AS HIGH AS 15 PERCENT OF MY PREMIUM,~~
1914 ~~BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO~~
1915 ~~BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN~~
1916 ~~PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE~~
1917 ~~WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES~~
1918 ~~ARE REGULATED AND APPROVED BY THE STATE.~~

1919 ~~3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY~~
1920 ~~ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER~~
1921 ~~INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE~~
1922 ~~FLORIDA LEGISLATURE.~~

1923 ~~4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE~~
1924 ~~CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE~~



975616

1925 ~~STATE OF FLORIDA.~~

1926

1927 ~~b.e.~~ The corporation shall maintain, in electronic format
1928 or otherwise, a copy of the applicant's signed acknowledgment
1929 and provide a copy of the statement to the policyholder as part
1930 of the first renewal after the effective date of sub-
1931 subparagraph a. ~~or sub-subparagraph b., as applicable.~~

1932 ~~c.d.~~ The signed acknowledgment form creates a conclusive
1933 presumption that the policyholder understood and accepted his or
1934 her potential surcharge and assessment liability as a
1935 policyholder of the corporation.

1936 (e) The corporation is subject to s. 287.057 for the
1937 purchase of commodities and contractual services except as
1938 otherwise provided in this paragraph. Services provided by
1939 tradepersons or technical experts to assist a licensed adjuster
1940 in the evaluation of individual claims are not subject to the
1941 procurement requirements of this section. Additionally, the
1942 procurement of financial services providers and underwriters
1943 must be made pursuant to s. 627.3513. Contracts for goods or
1944 services valued at or more than \$100,000 are subject to approval
1945 by the board.

1946 1. The corporation is an agency for purposes of s. 287.057,
1947 except that, for purposes of s. 287.057(24), the corporation is
1948 an eligible user.

1949 a. The authority of the Department of Management Services
1950 and the Chief Financial Officer under s. 287.057 extends to the
1951 corporation as if the corporation were an agency.

1952 b. The executive director of the corporation is the agency
1953 head under s. 287.057, ~~except for resolution of bid protests for~~



975616

1954 ~~which the board would serve as the agency head. The executive~~
1955 ~~director of the corporation may assign or appoint a designee to~~
1956 ~~act on his or her behalf.~~

1957 2. The corporation must provide notice of a decision or
1958 intended decision concerning a solicitation, contract award, or
1959 exceptional purchase by electronic posting. Such notice must
1960 contain the following statement: "Failure to file a protest
1961 within the time prescribed in this section constitutes a waiver
1962 of proceedings."

1963 a. A person adversely affected by the corporation's
1964 decision or intended decision to award a contract pursuant to s.
1965 287.057(1) or (3)(c) who elects to challenge the decision must
1966 file a written notice of protest with the executive director of
1967 the corporation within 72 hours after the corporation posts a
1968 notice of its decision or intended decision. For a protest of
1969 the terms, conditions, and specifications contained in a
1970 solicitation, including provisions governing the methods for
1971 ranking bids, proposals, replies, awarding contracts, reserving
1972 rights of further negotiation, or modifying or amending any
1973 contract, the notice of protest must be filed in writing within
1974 72 hours after posting the solicitation. Saturdays, Sundays, and
1975 state holidays are excluded in the computation of the 72-hour
1976 time period.

1977 b. A formal written protest must be filed within 10 days
1978 after the date the notice of protest is filed. The formal
1979 written protest must state with particularity the facts and law
1980 upon which the protest is based. Upon receipt of a formal
1981 written protest that has been timely filed, the corporation must
1982 stop the solicitation or contract award process until the



975616

1983 subject of the protest is resolved by final board action unless
1984 the executive director sets forth in writing particular facts
1985 and circumstances that require the continuance of the
1986 solicitation or contract award process without delay in order to
1987 avoid an immediate and serious danger to the public health,
1988 safety, or welfare.

1989 (I) The corporation must provide an opportunity to resolve
1990 the protest by mutual agreement between the parties within 7
1991 business days after receipt of the formal written protest.

1992 (II) If the subject of a protest is not resolved by mutual
1993 agreement within 7 business days, the corporation's board must
1994 transmit the protest to the Division of Administrative Hearings
1995 and contract with the division to conduct a hearing to determine
1996 the merits of the protest and to issue a recommended order. The
1997 contract must provide for the corporation to reimburse the
1998 division for any costs incurred by the division for court
1999 reporters, transcript preparation, travel, facility rental, and
2000 other customary hearing costs in the manner set forth in s.
2001 120.65(9). The division has jurisdiction to determine the facts
2002 and law concerning the protest and to issue a recommended order.
2003 The division's rules and procedures apply to these proceedings,
2004 ~~the division's applicable bond requirements do not apply.~~ The
2005 protest must be heard by the division at a publicly noticed
2006 meeting in accordance with procedures established by the
2007 division.

2008 c. In a protest of an invitation-to-bid or request-for-
2009 proposals procurement, submissions made after the bid or
2010 proposal opening which amend or supplement the bid or proposal
2011 may not be considered. In protesting an invitation-to-negotiate



975616

2012 procurement, submissions made after the corporation announces
2013 its intent to award a contract, reject all replies, or withdraw
2014 the solicitation that amends or supplements the reply may not be
2015 considered. Unless otherwise provided by law, the burden of
2016 proof rests with the party protesting the corporation's action.
2017 In a competitive-procurement protest, other than a rejection of
2018 all bids, proposals, or replies, the administrative law judge
2019 must conduct a de novo proceeding to determine whether the
2020 corporation's proposed action is contrary to the corporation's
2021 governing statutes, the corporation's rules or policies, or the
2022 solicitation specifications. The standard of proof for the
2023 proceeding is whether the corporation's action was clearly
2024 erroneous, contrary to competition, arbitrary, or capricious. In
2025 any bid-protest proceeding contesting an intended corporation
2026 action to reject all bids, proposals, or replies, the standard
2027 of review by the board is whether the corporation's intended
2028 action is illegal, arbitrary, dishonest, or fraudulent.

2029 d. Failure to file a notice of protest or failure to file a
2030 formal written protest constitutes a waiver of proceedings.

2031 3. The ~~board, acting as~~ agency head or his or her designee,
2032 shall consider the recommended order of an administrative law
2033 judge ~~in a public meeting~~ and take final action on the protest.
2034 Any further legal remedy lies with the First District Court of
2035 Appeal.

2036 (n)1. Rates for coverage provided by the corporation must
2037 be actuarially sound pursuant to s. 627.062 and not competitive
2038 with approved rates charged in the admitted voluntary market so
2039 that the corporation functions as a residual market mechanism to
2040 provide insurance only when insurance cannot be procured in the



975616

2041 voluntary market, except as otherwise provided in this
2042 paragraph. The office shall provide the corporation such
2043 information as would be necessary to determine whether rates are
2044 competitive.

2045
2046 The corporation shall file its recommended rates with the office
2047 at least annually. The corporation shall provide any additional
2048 information regarding the rates which the office requires. The
2049 office shall consider the recommendations of the board and issue
2050 a final order establishing the rates for the corporation within
2051 45 days after the recommended rates are filed. The corporation
2052 may not pursue an administrative challenge or judicial review of
2053 the final order of the office.

2054 2. In addition to the rates otherwise determined pursuant
2055 to this paragraph, the corporation shall impose and collect an
2056 amount equal to the premium tax provided in s. 624.509 to
2057 augment the financial resources of the corporation.

2058 3. After the public hurricane loss-projection model under
2059 s. 627.06281 has been found to be accurate and reliable by the
2060 Florida Commission on Hurricane Loss Projection Methodology, the
2061 model shall be considered when establishing the windstorm
2062 portion of the corporation's rates. The corporation may use the
2063 public model results in combination with the results of private
2064 models to calculate rates for the windstorm portion of the
2065 corporation's rates. This subparagraph does not require or allow
2066 the corporation to adopt rates lower than the rates otherwise
2067 required or allowed by this paragraph.

2068 4. The corporation must make a recommended actuarially
2069 sound rate filing for each personal and commercial line of



975616

2070 business it writes.

2071 5. Notwithstanding the board's recommended rates and the
2072 office's final order regarding the corporation's filed rates
2073 under subparagraph 1., the corporation shall annually implement
2074 a rate increase which, except for sinkhole coverage, does not
2075 exceed the following for any single policy issued by the
2076 corporation, excluding coverage changes and surcharges:

2077 a. ~~Twelve percent for 2023.~~

2078 ~~b.~~ Thirteen percent for 2024.

2079 ~~b.e.~~ Fourteen percent for 2025.

2080 ~~c.d.~~ Fifteen percent for 2026 and all subsequent years.

2081 6. The corporation may also implement an increase to
2082 reflect the effect on the corporation of the cash buildup factor
2083 pursuant to s. 215.555(5) (b).

2084 7. The corporation's implementation of rates as prescribed
2085 in subparagraphs 5. and 8. shall cease for any line of business
2086 written by the corporation upon the corporation's implementation
2087 of actuarially sound rates. Thereafter, the corporation shall
2088 annually make a recommended actuarially sound rate filing that
2089 is not competitive with approved rates in the admitted voluntary
2090 market for each commercial and personal line of business the
2091 corporation writes.

2092 8. The following new or renewal personal lines policies
2093 written on or after November 1, 2023, are not subject to the
2094 rate increase limitations in subparagraph 5., but may not be
2095 charged more than 50 percent above, and may not be charged ~~not~~
2096 less than, the prior year's established rate for the
2097 corporation:

2098 a. Policies that do not cover a primary residence;



975616

2099 b. New policies under which the coverage for the insured
2100 risk, before the date of application with the corporation, was
2101 last provided by an insurer determined by the office to be
2102 unsound or an insurer placed in receivership under chapter 631;
2103 or

2104 c. Subsequent renewals of those policies, including the new
2105 policies in sub-subparagraph b., under which the coverage for
2106 the insured risk, before the date of application with the
2107 corporation, was last provided by an insurer determined by the
2108 office to be unsound or an insurer placed in receivership under
2109 chapter 631.

2110 9. As used in this paragraph, the term "primary residence"
2111 means the dwelling that is the policyholder's primary home or is
2112 a rental property that is the primary home of the tenant, and
2113 which the policyholder or tenant occupies for more than 9 months
2114 of each year.

2115 (o) If coverage in ~~an account, or~~ the Citizens account ~~if~~
2116 ~~established by the corporation,~~ is deactivated pursuant to
2117 paragraph (p), coverage through the corporation shall be
2118 reactivated by order of the office only under one of the
2119 following circumstances:

2120 1. If the market assistance plan receives a minimum of 100
2121 applications for coverage within a 3-month period, or 200
2122 applications for coverage within a 1-year period or less for
2123 residential coverage, unless the market assistance plan provides
2124 a quotation from authorized ~~admitted~~ carriers at their approved
2125 ~~filed~~ rates for at least 90 percent of such applicants. Any
2126 market assistance plan application that is rejected because an
2127 individual risk is so hazardous as to be uninsurable using the



975616

2128 criteria specified in subparagraph (c)8. shall not be included
2129 in the minimum percentage calculation provided herein. In the
2130 event that there is a legal or administrative challenge to a
2131 determination by the office that the conditions of this
2132 subparagraph have been met for eligibility for coverage in the
2133 corporation, any eligible risk may obtain coverage during the
2134 pendency of such challenge.

2135 2. In response to a state of emergency declared by the
2136 Governor under s. 252.36, the office may activate coverage by
2137 order for the period of the emergency upon a finding by the
2138 office that the emergency significantly affects the availability
2139 of residential property insurance.

2140 (p)1. The corporation shall file with the office quarterly
2141 statements of financial condition, an annual statement of
2142 financial condition, and audited financial statements in the
2143 manner prescribed by law. In addition, the corporation shall
2144 report to the office monthly on the types, premium, exposure,
2145 and distribution by county of its policies in force, and shall
2146 submit other reports as the office requires to carry out its
2147 oversight of the corporation.

2148 2. The activities of the corporation shall be reviewed at
2149 least annually by the office to determine whether coverage shall
2150 be deactivated in ~~an account, or in~~ the Citizens account ~~if~~
2151 ~~established by the corporation,~~ on the basis that the conditions
2152 giving rise to its activation no longer exist.

2153 (q)1. The corporation shall certify to the office its needs
2154 for annual assessments as to a particular calendar year, and for
2155 any interim assessments that it deems to be necessary to sustain
2156 operations as to a particular year pending the receipt of annual



975616

2157 assessments. Upon verification, the office shall approve such
2158 certification, and the corporation shall levy such annual or
2159 interim assessments. Such assessments shall be prorated, if
2160 authority to levy exists, as provided in paragraph (b). The
2161 corporation shall take all reasonable and prudent steps
2162 necessary to collect the amount of assessments due from each
2163 assessable insurer, including, if prudent, filing suit to
2164 collect the assessments, and the office may provide such
2165 assistance to the corporation it deems appropriate. If the
2166 corporation is unable to collect an assessment from any
2167 assessable insurer, the uncollected assessments shall be levied
2168 as an additional assessment against the assessable insurers and
2169 any assessable insurer required to pay an additional assessment
2170 as a result of such failure to pay shall have a cause of action
2171 against such nonpaying assessable insurer. Assessments shall be
2172 included as an appropriate factor in the making of rates. The
2173 failure of a surplus lines agent to collect and remit any
2174 regular or emergency assessment levied by the corporation is
2175 considered to be a violation of s. 626.936 and subjects the
2176 surplus lines agent to the penalties provided in that section.

2177 2. The governing body of any unit of local government, any
2178 residents of which are insured by the corporation, may issue
2179 bonds as defined in s. 125.013 or s. 166.101 from time to time
2180 to fund an assistance program, in conjunction with the
2181 corporation, for the purpose of defraying deficits of the
2182 corporation. In order to avoid needless and indiscriminate
2183 proliferation, duplication, and fragmentation of such assistance
2184 programs, any unit of local government, any residents of which
2185 are insured by the corporation, may provide for the payment of



975616

2186 losses, regardless of whether or not the losses occurred within
2187 or outside of the territorial jurisdiction of the local
2188 government. Revenue bonds under this subparagraph may not be
2189 issued until validated pursuant to chapter 75, unless a state of
2190 emergency is declared by executive order or proclamation of the
2191 Governor pursuant to s. 252.36 making such findings as are
2192 necessary to determine that it is in the best interests of, and
2193 necessary for, the protection of the public health, safety, and
2194 general welfare of residents of this state and declaring it an
2195 essential public purpose to permit certain municipalities or
2196 counties to issue such bonds as will permit relief to claimants
2197 and policyholders of the corporation. Any such unit of local
2198 government may enter into such contracts with the corporation
2199 and with any other entity created pursuant to this subsection as
2200 are necessary to carry out this paragraph. Any bonds issued
2201 under this subparagraph shall be payable from and secured by
2202 moneys received by the corporation from emergency assessments
2203 under sub-subparagraph (b)3.c. ~~(b)3.e.~~, and assigned and pledged
2204 to or on behalf of the unit of local government for the benefit
2205 of the holders of such bonds. The funds, credit, property, and
2206 taxing power of the state or of the unit of local government
2207 shall not be pledged for the payment of such bonds.

2208 3.a. The corporation shall adopt one or more programs
2209 subject to approval by the office for the reduction of both new
2210 and renewal writings in the corporation. Beginning January 1,
2211 2008, any program the corporation adopts for the payment of
2212 bonuses to an insurer for each risk the insurer removes from the
2213 corporation shall comply with s. 627.3511(2) and may not exceed
2214 the amount referenced in s. 627.3511(2) for each risk removed.



975616

2215 The corporation may consider any prudent and not unfairly
2216 discriminatory approach to reducing corporation writings, and
2217 may adopt a credit against assessment liability or other
2218 liability that provides an incentive for insurers to take risks
2219 out of the corporation and to keep risks out of the corporation
2220 by maintaining or increasing voluntary writings in counties or
2221 areas in which corporation risks are highly concentrated and a
2222 program to provide a formula under which an insurer voluntarily
2223 taking risks out of the corporation by maintaining or increasing
2224 voluntary writings will be relieved wholly or partially from
2225 assessments ~~under sub-subparagraph (b)3.a.~~ In addition, in the
2226 event policies are taken out by an approved surplus lines
2227 insurer, such insurer's assessable insureds may also be relieved
2228 wholly or partially from assessments. However, any "take-out
2229 bonus" or payment to an insurer must be conditioned on the
2230 property being insured for at least 5 years by the insurer,
2231 unless canceled or nonrenewed by the policyholder. If the policy
2232 is canceled or nonrenewed by the policyholder before the end of
2233 the 5-year period, the amount of the take-out bonus must be
2234 prorated for the time period the policy was insured. When the
2235 corporation enters into a contractual agreement for a take-out
2236 plan, the producing agent of record of the corporation policy is
2237 entitled to retain any unearned commission on such policy, and
2238 the insurer shall either:

2239 (I) Pay to the producing agent of record of the policy, for
2240 the first year, an amount which is the greater of the insurer's
2241 usual and customary commission for the type of policy written or
2242 a policy fee equal to the usual and customary commission of the
2243 corporation; or



975616

2244 (II) Offer to allow the producing agent of record of the
2245 policy to continue servicing the policy for a period of not less
2246 than 1 year and offer to pay the agent the insurer's usual and
2247 customary commission for the type of policy written. If the
2248 producing agent is unwilling or unable to accept appointment by
2249 the new insurer, the new insurer shall pay the agent in
2250 accordance with sub-sub-subparagraph (I).

2251 b. Any credit or exemption from regular assessments adopted
2252 under this subparagraph shall last no longer than the 3 years
2253 following the cancellation or expiration of the policy by the
2254 corporation. With the approval of the office, the board may
2255 extend such credits for an additional year if the insurer
2256 guarantees an additional year of renewability for all policies
2257 removed from the corporation, or for 2 additional years if the
2258 insurer guarantees 2 additional years of renewability for all
2259 policies so removed.

2260 c. There shall be no credit, limitation, exemption, or
2261 deferment from emergency assessments to be collected from
2262 policyholders pursuant to sub-subparagraph (b)3.c. ~~sub-~~
2263 ~~subparagraph (b)3.e. or sub-subparagraph (b)5.e.~~

2264 ~~4. The plan shall provide for the deferment, in whole or in~~
2265 ~~part, of the assessment of an assessable insurer, other than an~~
2266 ~~emergency assessment collected from policyholders pursuant to~~
2267 ~~sub-subparagraph (b)3.e. or sub-subparagraph (b)5.e., if the~~
2268 ~~office finds that payment of the assessment would endanger or~~
2269 ~~impair the solvency of the insurer. In the event an assessment~~
2270 ~~against an assessable insurer is deferred in whole or in part,~~
2271 ~~the amount by which such assessment is deferred may be assessed~~
2272 ~~against the other assessable insurers in a manner consistent~~



975616

2273 ~~with the basis for assessments set forth in paragraph (b).~~

2274 ~~5.~~ Effective July 1, 2007, in order to evaluate the costs
2275 and benefits of approved take-out plans, if the corporation pays
2276 a bonus or other payment to an insurer for an approved take-out
2277 plan, it shall maintain a record of the address or such other
2278 identifying information on the property or risk removed in order
2279 to track if and when the property or risk is later insured by
2280 the corporation.

2281 ~~5.6.~~ Any policy taken out, assumed, or removed from the
2282 corporation is, as of the effective date of the take-out,
2283 assumption, or removal, direct insurance issued by the insurer
2284 and not by the corporation, even if the corporation continues to
2285 service the policies. This subparagraph applies to policies of
2286 the corporation and not policies taken out, assumed, or removed
2287 from any other entity.

2288 ~~6.7.~~ For a policy taken out, assumed, or removed from the
2289 corporation, the insurer may, for a period of no more than 3
2290 years, continue to use any of the corporation's policy forms or
2291 endorsements that apply to the policy taken out, removed, or
2292 assumed without obtaining approval from the office for use of
2293 such policy form or endorsement.

2294 (v)1. Effective July 1, 2002, policies of the Residential
2295 Property and Casualty Joint Underwriting Association become
2296 policies of the corporation. All obligations, rights, assets and
2297 liabilities of the association, including bonds, note and debt
2298 obligations, and the financing documents pertaining to them
2299 become those of the corporation as of July 1, 2002. The
2300 corporation is not required to issue endorsements or
2301 certificates of assumption to insureds during the remaining term



2302 of in-force transferred policies.

2303 2. Effective July 1, 2002, policies of the Florida
2304 Windstorm Underwriting Association are transferred to the
2305 corporation and become policies of the corporation. All
2306 obligations, rights, assets, and liabilities of the association,
2307 including bonds, note and debt obligations, and the financing
2308 documents pertaining to them are transferred to and assumed by
2309 the corporation on July 1, 2002. The corporation is not required
2310 to issue endorsements or certificates of assumption to insureds
2311 during the remaining term of in-force transferred policies.

2312 3. The Florida Windstorm Underwriting Association and the
2313 Residential Property and Casualty Joint Underwriting Association
2314 shall take all actions necessary to further evidence the
2315 transfers and provide the documents and instruments of further
2316 assurance as may reasonably be requested by the corporation for
2317 that purpose. The corporation shall execute assumptions and
2318 instruments as the trustees or other parties to the financing
2319 documents of the Florida Windstorm Underwriting Association or
2320 the Residential Property and Casualty Joint Underwriting
2321 Association may reasonably request to further evidence the
2322 transfers and assumptions, which transfers and assumptions,
2323 however, are effective on the date provided under this paragraph
2324 whether or not, and regardless of the date on which, the
2325 assumptions or instruments are executed by the corporation.
2326 ~~Subject to the relevant financing documents pertaining to their~~
2327 ~~outstanding bonds, notes, indebtedness, or other financing~~
2328 ~~obligations, the moneys, investments, receivables, choses in~~
2329 ~~action, and other intangibles of the Florida Windstorm~~
2330 ~~Underwriting Association shall be credited to the coastal~~



975616

2331 ~~account of the corporation, and those of the personal lines~~
2332 ~~residential coverage account and the commercial lines~~
2333 ~~residential coverage account of the Residential Property and~~
2334 ~~Casualty Joint Underwriting Association shall be credited to the~~
2335 ~~personal lines account and the commercial lines account,~~
2336 ~~respectively, of the corporation.~~

2337 4. Effective July 1, 2002, a new applicant for property
2338 insurance coverage who would otherwise have been eligible for
2339 coverage in the Florida Windstorm Underwriting Association is
2340 eligible for coverage from the corporation as provided in this
2341 subsection.

2342 5. The transfer of all policies, obligations, rights,
2343 assets, and liabilities from the Florida Windstorm Underwriting
2344 Association to the corporation and the renaming of the
2345 Residential Property and Casualty Joint Underwriting Association
2346 as the corporation does not affect the coverage with respect to
2347 covered policies as defined in s. 215.555(2)(c) provided to
2348 these entities by the Florida Hurricane Catastrophe Fund. ~~The~~
2349 ~~coverage provided by the fund to the Florida Windstorm~~
2350 ~~Underwriting Association based on its exposures as of June 30,~~
2351 ~~2002, and each June 30 thereafter, unless the corporation has~~
2352 ~~established the Citizens account, shall be redesignated as~~
2353 ~~coverage for the coastal account of the corporation.~~
2354 ~~Notwithstanding any other provision of law, the coverage~~
2355 ~~provided by the fund to the Residential Property and Casualty~~
2356 ~~Joint Underwriting Association based on its exposures as of June~~
2357 ~~30, 2002, and each June 30 thereafter, unless the corporation~~
2358 ~~has established the Citizens account, shall be transferred to~~
2359 ~~the personal lines account and the commercial lines account of~~



975616

2360 ~~the corporation. Notwithstanding any other provision of law, the~~
2361 ~~coastal account, unless the corporation has established the~~
2362 ~~Citizens account, shall be treated, for all Florida Hurricane~~
2363 ~~Catastrophe Fund purposes, as if it were a separate~~
2364 ~~participating insurer with its own exposures, reimbursement~~
2365 ~~premium, and loss reimbursement. Likewise, the personal lines~~
2366 ~~and commercial lines accounts, unless the corporation has~~
2367 ~~established the Citizens account, shall be viewed together, for~~
2368 ~~all fund purposes, as if the two accounts were one and represent~~
2369 ~~a single, separate participating insurer with its own exposures,~~
2370 ~~reimbursement premium, and loss reimbursement. The coverage~~
2371 ~~provided by the fund to the corporation shall constitute and~~
2372 ~~operate as a full transfer of coverage from the Florida~~
2373 ~~Windstorm Underwriting Association and Residential Property and~~
2374 ~~Casualty Joint Underwriting Association to the corporation.~~

2375 (w) Notwithstanding any other provision of law:

2376 1. The pledge or sale of, the lien upon, and the security
2377 interest in any rights, revenues, or other assets of the
2378 corporation created or purported to be created pursuant to any
2379 financing documents to secure any bonds or other indebtedness of
2380 the corporation shall be and remain valid and enforceable,
2381 notwithstanding the commencement of and during the continuation
2382 of, and after, any rehabilitation, insolvency, liquidation,
2383 bankruptcy, receivership, conservatorship, reorganization, or
2384 similar proceeding against the corporation under the laws of
2385 this state.

2386 2. The proceeding does not relieve the corporation of its
2387 obligation, or otherwise affect its ability to perform its
2388 obligation, to continue to collect, or levy and collect,



975616

2389 assessments, policyholder surcharges or other surcharges ~~under~~
2390 ~~sub-subparagraph (b) 3. j.~~, or any other rights, revenues, or
2391 other assets of the corporation pledged pursuant to any
2392 financing documents.

2393 3. Each such pledge or sale of, lien upon, and security
2394 interest in, including the priority of such pledge, lien, or
2395 security interest, any such assessments, policyholder surcharges
2396 or other surcharges, or other rights, revenues, or other assets
2397 which are collected, or levied and collected, after the
2398 commencement of and during the pendency of, or after, any such
2399 proceeding shall continue unaffected by such proceeding. As used
2400 in this subsection, the term "financing documents" means any
2401 agreement or agreements, instrument or instruments, or other
2402 document or documents now existing or hereafter created
2403 evidencing any bonds or other indebtedness of the corporation or
2404 pursuant to which any such bonds or other indebtedness has been
2405 or may be issued and pursuant to which any rights, revenues, or
2406 other assets of the corporation are pledged or sold to secure
2407 the repayment of such bonds or indebtedness, together with the
2408 payment of interest on such bonds or such indebtedness, or the
2409 payment of any other obligation or financial product, as defined
2410 in the plan of operation of the corporation related to such
2411 bonds or indebtedness.

2412 4. Any such pledge or sale of assessments, revenues,
2413 contract rights, or other rights or assets of the corporation
2414 shall constitute a lien and security interest, or sale, as the
2415 case may be, that is immediately effective and attaches to such
2416 assessments, revenues, or contract rights or other rights or
2417 assets, whether or not imposed or collected at the time the



975616

2418 pledge or sale is made. Any such pledge or sale is effective,
2419 valid, binding, and enforceable against the corporation or other
2420 entity making such pledge or sale, and valid and binding against
2421 and superior to any competing claims or obligations owed to any
2422 other person or entity, including policyholders in this state,
2423 asserting rights in any such assessments, revenues, or contract
2424 rights or other rights or assets to the extent set forth in and
2425 in accordance with the terms of the pledge or sale contained in
2426 the applicable financing documents, whether or not any such
2427 person or entity has notice of such pledge or sale and without
2428 the need for any physical delivery, recordation, filing, or
2429 other action.

2430 5. As long as the corporation has any bonds outstanding,
2431 the corporation may not file a voluntary petition under chapter
2432 9 of the federal Bankruptcy Code or such corresponding chapter
2433 or sections as may be in effect, from time to time, and a public
2434 officer or any organization, entity, or other person may not
2435 authorize the corporation to be or become a debtor under chapter
2436 9 of the federal Bankruptcy Code or such corresponding chapter
2437 or sections as may be in effect, from time to time, during any
2438 such period.

2439 6. If ordered by a court of competent jurisdiction, the
2440 corporation may assume policies or otherwise provide coverage
2441 for policyholders of an insurer placed in liquidation under
2442 chapter 631, under such forms, rates, terms, and conditions as
2443 the corporation deems appropriate, subject to approval by the
2444 office.

2445 (x)1. The following records of the corporation are
2446 confidential and exempt from the provisions of s. 119.07(1) and



975616

2447 s. 24(a), Art. I of the State Constitution:

2448 a. Underwriting files, except that a policyholder or an
2449 applicant shall have access to his or her own underwriting
2450 files. Confidential and exempt underwriting file records may
2451 also be released to other governmental agencies upon written
2452 request and demonstration of need; such records held by the
2453 receiving agency remain confidential and exempt as provided
2454 herein.

2455 b. Claims files, until termination of all litigation and
2456 settlement of all claims arising out of the same incident,
2457 although portions of the claims files may remain exempt, as
2458 otherwise provided by law. Confidential and exempt claims file
2459 records may be released to other governmental agencies upon
2460 written request and demonstration of need; such records held by
2461 the receiving agency remain confidential and exempt as provided
2462 herein.

2463 c. Records obtained or generated by an internal auditor
2464 pursuant to a routine audit, until the audit is completed, or if
2465 the audit is conducted as part of an investigation, until the
2466 investigation is closed or ceases to be active. An investigation
2467 is considered "active" while the investigation is being
2468 conducted with a reasonable, good faith belief that it could
2469 lead to the filing of administrative, civil, or criminal
2470 proceedings.

2471 d. Matters reasonably encompassed in privileged attorney-
2472 client communications.

2473 e. Proprietary information licensed to the corporation
2474 under contract and the contract provides for the confidentiality
2475 of such proprietary information.



975616

2476 f. All information relating to the medical condition or
2477 medical status of a corporation employee which is not relevant
2478 to the employee's capacity to perform his or her duties, except
2479 as otherwise provided in this paragraph. Information that is
2480 exempt shall include, but is not limited to, information
2481 relating to workers' compensation, insurance benefits, and
2482 retirement or disability benefits.

2483 g. Upon an employee's entrance into the employee assistance
2484 program, a program to assist any employee who has a behavioral
2485 or medical disorder, substance abuse problem, or emotional
2486 difficulty that affects the employee's job performance, all
2487 records relative to that participation shall be confidential and
2488 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I
2489 of the State Constitution, except as otherwise provided in s.
2490 112.0455(11).

2491 h. Information relating to negotiations for financing,
2492 reinsurance, depopulation, or contractual services, until the
2493 conclusion of the negotiations.

2494 i. Minutes of closed meetings regarding underwriting files,
2495 and minutes of closed meetings regarding an open claims file
2496 until termination of all litigation and settlement of all claims
2497 with regard to that claim, except that information otherwise
2498 confidential or exempt by law shall be redacted.

2499 2. If an authorized insurer is considering underwriting a
2500 risk insured by the corporation, relevant underwriting files and
2501 confidential claims files may be released to the insurer
2502 provided the insurer agrees in writing, notarized and under
2503 oath, to maintain the confidentiality of such files. If a file
2504 is transferred to an insurer, that file is no longer a public



975616

2505 record because it is not held by an agency subject to the
2506 provisions of the public records law. Underwriting files and
2507 confidential claims files may also be released to staff and the
2508 board of governors of the market assistance plan established
2509 pursuant to s. 627.3515, who must retain the confidentiality of
2510 such files, except such files may be released to authorized
2511 insurers that are considering assuming the risks to which the
2512 files apply, provided the insurer agrees in writing, notarized
2513 and under oath, to maintain the confidentiality of such files.
2514 Finally, the corporation or the board or staff of the market
2515 assistance plan may make the following information obtained from
2516 underwriting files and confidential claims files available to an
2517 entity that has obtained a permit to become an authorized
2518 insurer, a reinsurer that may provide reinsurance under s.
2519 624.610, a licensed reinsurance broker, a licensed rating
2520 organization, a modeling company, a licensed surplus lines
2521 agent, or a licensed general lines insurance agent: name,
2522 address, and telephone number of the residential property owner
2523 or insured; location of the risk; rating information; loss
2524 history; and policy type. The receiving person must retain the
2525 confidentiality of the information received and may use the
2526 information only for the purposes of developing a take-out plan
2527 or a rating plan to be submitted to the office for approval or
2528 otherwise analyzing the underwriting of a risk or risks insured
2529 by the corporation on behalf of the private insurance market. A
2530 licensed surplus lines agent or licensed general lines insurance
2531 agent may not use such information for the direct solicitation
2532 of policyholders.

2533 3. A policyholder who has filed suit against the



975616

2534 corporation has the right to discover the contents of his or her
2535 own claims file to the same extent that discovery of such
2536 contents would be available from a private insurer in litigation
2537 as provided by the Florida Rules of Civil Procedure, the Florida
2538 Evidence Code, and other applicable law. Pursuant to subpoena, a
2539 third party has the right to discover the contents of an
2540 insured's or applicant's underwriting or claims file to the same
2541 extent that discovery of such contents would be available from a
2542 private insurer by subpoena as provided by the Florida Rules of
2543 Civil Procedure, the Florida Evidence Code, and other applicable
2544 law, and subject to any confidentiality protections requested by
2545 the corporation and agreed to by the seeking party or ordered by
2546 the court. The corporation may release confidential underwriting
2547 and claims file contents and information as it deems necessary
2548 and appropriate to underwrite or service insurance policies and
2549 claims, subject to any confidentiality protections deemed
2550 necessary and appropriate by the corporation.

2551 4. Portions of meetings of the corporation are exempt from
2552 the provisions of s. 286.011 and s. 24(b), Art. I of the State
2553 Constitution wherein confidential underwriting files or
2554 confidential open claims files are discussed. All portions of
2555 corporation meetings which are closed to the public shall be
2556 recorded by a court reporter. The court reporter shall record
2557 the times of commencement and termination of the meeting, all
2558 discussion and proceedings, the names of all persons present at
2559 any time, and the names of all persons speaking. No portion of
2560 any closed meeting shall be off the record. Subject to the
2561 provisions hereof and s. 119.07(1)(d)-(f), the court reporter's
2562 notes of any closed meeting shall be retained by the corporation



975616

2563 for a minimum of 5 years. A copy of the transcript, less any
2564 exempt matters, of any closed meeting wherein claims are
2565 discussed shall become public as to individual claims after
2566 settlement of the claim.

2567 (z) In enacting the provisions of this section, the
2568 Legislature recognizes that both the Florida Windstorm
2569 Underwriting Association and the Residential Property and
2570 Casualty Joint Underwriting Association have entered into
2571 financing arrangements that obligate each entity to service its
2572 debts and maintain the capacity to repay funds secured under
2573 these financing arrangements. It is the intent of the
2574 Legislature that nothing in this section be construed to
2575 compromise, diminish, or interfere with the rights of creditors
2576 under such financing arrangements. It is further the intent of
2577 the Legislature to preserve the obligations of the Florida
2578 Windstorm Underwriting Association and Residential Property and
2579 Casualty Joint Underwriting Association with regard to
2580 outstanding financing arrangements, with such obligations
2581 passing entirely and unchanged to the corporation and,
2582 specifically, to the Citizens ~~applicable~~ account ~~of the~~
2583 ~~corporation~~. So long as any bonds, notes, indebtedness, or other
2584 financing obligations of the Florida Windstorm Underwriting
2585 Association or the Residential Property and Casualty Joint
2586 Underwriting Association are outstanding, under the terms of the
2587 financing documents pertaining to them, the governing board of
2588 the corporation shall have and shall exercise the authority to
2589 levy, charge, collect, and receive all premiums, assessments,
2590 surcharges, charges, revenues, and receipts that the
2591 associations had authority to levy, charge, collect, or receive



975616

2592 under the provisions of subsection (2) and this subsection,
2593 respectively, as they existed on January 1, 2002, to provide
2594 moneys, without exercise of the authority provided by this
2595 subsection, in at least the amounts, and by the times, as would
2596 be provided under those former provisions of subsection (2) or
2597 this subsection, respectively, so that the value, amount, and
2598 collectability of any assets, revenues, or revenue source
2599 pledged or committed to, or any lien thereon securing such
2600 outstanding bonds, notes, indebtedness, or other financing
2601 obligations will not be diminished, impaired, or adversely
2602 affected by the amendments made by this act and to permit
2603 compliance with all provisions of financing documents pertaining
2604 to such bonds, notes, indebtedness, or other financing
2605 obligations, or the security or credit enhancement for them, and
2606 any reference in this subsection to bonds, notes, indebtedness,
2607 financing obligations, or similar obligations, of the
2608 corporation shall include like instruments or contracts of the
2609 Florida Windstorm Underwriting Association and the Residential
2610 Property and Casualty Joint Underwriting Association to the
2611 extent not inconsistent with the provisions of the financing
2612 documents pertaining to them.

2613 (ii) The corporation shall revise the programs adopted
2614 pursuant to sub-subparagraph (q)3.a. for personal lines
2615 residential policies to maximize policyholder options and
2616 encourage increased participation by insurers and agents. After
2617 January 1, 2017, a policy may not be taken out of the
2618 corporation unless the provisions of this paragraph are met.

2619 1. The corporation must publish a periodic schedule of
2620 cycles during which an insurer may identify, and notify the



975616

2621 corporation of, policies that the insurer is requesting to take
2622 out. A request must include a description of the coverage
2623 offered and an estimated premium and must be submitted to the
2624 corporation in a form and manner prescribed by the corporation.

2625 2. The corporation must maintain and make available to the
2626 agent of record a consolidated list of all insurers requesting
2627 to take out a policy. The list must include a description of the
2628 coverage offered and the estimated premium for each take-out
2629 request.

2630 3. If a policyholder receives a take-out offer from an
2631 authorized insurer, the risk is no longer eligible for coverage
2632 with the corporation unless the premium for coverage from the
2633 authorized insurer is more than 20 percent greater than the
2634 renewal premium for comparable coverage from the corporation
2635 pursuant to sub-subparagraph (c)5.c. This subparagraph applies
2636 to take-out offers that are part of an application to
2637 participate in depopulation submitted to the office on or after
2638 January 1, 2023. This subparagraph only applies to a policy that
2639 covers a primary residence.

2640 4. The corporation must provide written notice to the
2641 policyholder and the agent of record regarding all insurers
2642 requesting to take out the policy. The notice must be in a
2643 format prescribed by the corporation and include, for each take-
2644 out offer:

- 2645 a. The amount of the estimated premium;
2646 b. A description of the coverage; and
2647 c. A comparison of the estimated premium and coverage
2648 offered by the insurer to the estimated premium and coverage
2649 provided by the corporation.



975616

2650 (nn) The corporation may share its claims data with the
2651 National Insurance Crime Bureau, provided that the National
2652 Insurance Crime Bureau agrees to maintain the confidentiality of
2653 such documents as otherwise provided for in paragraph (x).

2654 (7) TRADEMARKS, COPYRIGHTS, OR PATENTS.—Notwithstanding any
2655 other law, the corporation is authorized, in its own name, to:

2656 (a) Perform all things necessary to secure letters of
2657 patent, copyrights, or trademarks on any work products and
2658 enforce its rights therein.

2659 (b) License, lease, assign, or otherwise give written
2660 consent to any person, firm, or corporation for the manufacture
2661 or use thereof, on a royalty basis or for such other
2662 consideration as the corporation deems proper.

2663 (c) Take any action necessary, including legal action, to
2664 protect trademarks, copyrights, or patents against improper or
2665 unlawful use or infringement.

2666 (d) Enforce the collection of any sums due the corporation
2667 for the manufacture or use thereof by any other party.

2668 (e) Sell any of its trademarks, copyrights, or patents and
2669 execute all instruments necessary to consummate any such sale.

2670 (f) Do all other acts necessary and proper for the
2671 execution of powers and duties herein conferred upon the
2672 corporation in order to administer this subsection.

2673 Section 2. Paragraphs (a), (b), and (c) of subsection (3)
2674 and paragraphs (d), (e), and (f) of subsection (6) of section
2675 627.3511, Florida Statutes, are amended to read:

2676 627.3511 Depopulation of Citizens Property Insurance
2677 Corporation.—

2678 (3) EXEMPTION FROM DEFICIT ASSESSMENTS.—



975616

2679 (a) The calculation of an insurer's ~~assessment~~ liability
2680 ~~under s. 627.351(6)(b)3.a.~~ shall, for an insurer that in any
2681 calendar year removes 50,000 or more risks from the Citizens
2682 Property Insurance Corporation, either by issuance of a policy
2683 upon expiration or cancellation of the corporation policy or by
2684 assumption of the corporation's obligations with respect to in-
2685 force policies, exclude such removed policies for the succeeding
2686 3 years, as follows:

2687 1. In the first year following removal of the risks, the
2688 risks are excluded from the calculation to the extent of 100
2689 percent.

2690 2. In the second year following removal of the risks, the
2691 risks are excluded from the calculation to the extent of 75
2692 percent.

2693 3. In the third year following removal of the risks, the
2694 risks are excluded from the calculation to the extent of 50
2695 percent.

2696
2697 If the removal of risks is accomplished through assumption of
2698 obligations with respect to in-force policies, the corporation
2699 shall pay to the assuming insurer all unearned premium with
2700 respect to such policies less any policy acquisition costs
2701 agreed to by the corporation and assuming insurer. The term
2702 "policy acquisition costs" is defined as costs of issuance of
2703 the policy by the corporation which includes agent commissions,
2704 servicing company fees, and premium tax. This paragraph does not
2705 apply to an insurer that, at any time within 5 years before
2706 removing the risks, had a market share in excess of 0.1 percent
2707 of the statewide aggregate gross direct written premium for any



975616

2708 line of property insurance, or to an affiliate of such an
2709 insurer. This paragraph does not apply unless either at least 40
2710 percent of the risks removed from the corporation are located in
2711 Miami-Dade, Broward, and Palm Beach Counties, or at least 30
2712 percent of the risks removed from the corporation are located in
2713 such counties and an additional 50 percent of the risks removed
2714 from the corporation are located in other coastal counties.

2715 (b) An insurer that first wrote personal lines residential
2716 property coverage in this state on or after July 1, 1994, is
2717 exempt from liability ~~regular deficit assessments imposed~~
2718 ~~pursuant to s. 627.351(6)(b)3.a.~~, but not emergency assessments
2719 collected from policyholders pursuant to s. 627.351(6)(b)3.c. ~~s.~~
2720 ~~627.351(6)(b)3.e.~~, of the Citizens Property Insurance
2721 Corporation until the earlier of the following:

2722 1. The end of the calendar year in which it first wrote 0.5
2723 percent or more of the statewide aggregate direct written
2724 premium for any line of residential property coverage; or

2725 2. December 31, 1997, or December 31 of the third year in
2726 which it wrote such coverage in this state, whichever is later.

2727 (c) Other than an insurer that is exempt under paragraph
2728 (b), an insurer that in any calendar year increases its total
2729 structure exposure subject to wind coverage by 25 percent or
2730 more over its exposure for the preceding calendar year is, with
2731 respect to that year, exempt from liability ~~deficit assessments~~
2732 ~~imposed pursuant to s. 627.351(6)(b)3.a.~~, but not from emergency
2733 assessments collected from policyholders pursuant to s.
2734 627.351(6)(b)3.c. ~~s. 627.351(6)(b)3.e.~~, of the Citizens Property
2735 Insurance Corporation attributable to such increase in exposure.

2736 (6) COMMERCIAL RESIDENTIAL TAKE-OUT PLANS.-



975616

2737 (d) The calculation of an insurer's ~~regular assessment~~
2738 liability ~~under s. 627.351(6)(b)3.a.~~, but not emergency
2739 assessments collected from policyholders pursuant to s.
2740 627.351(6)(b)3.c. ~~s. 627.351(6)(b)3.e.~~, shall, with respect to
2741 commercial residential policies removed from the corporation
2742 under an approved take-out plan, exclude such removed policies
2743 for the succeeding 3 years, as follows:

2744 1. In the first year following removal of the policies, the
2745 policies are excluded from the calculation to the extent of 100
2746 percent.

2747 2. In the second year following removal of the policies,
2748 the policies are excluded from the calculation to the extent of
2749 75 percent.

2750 3. In the third year following removal of the policies, the
2751 policies are excluded from the calculation to the extent of 50
2752 percent.

2753 (e) An insurer that first wrote commercial residential
2754 property coverage in this state on or after June 1, 1996, is
2755 exempt from liability ~~regular assessments under s.~~
2756 ~~627.351(6)(b)3.a.~~, but not from emergency assessments collected
2757 from policyholders pursuant to s. 627.351(6)(b)3.c. ~~s.~~
2758 ~~627.351(6)(b)3.e.~~, with respect to commercial residential
2759 policies until the earlier of:

2760 1. The end of the calendar year in which such insurer first
2761 wrote 0.5 percent or more of the statewide aggregate direct
2762 written premium for commercial residential property coverage; or

2763 2. December 31 of the third year in which such insurer
2764 wrote commercial residential property coverage in this state.

2765 (f) An insurer that is not otherwise exempt from liability



975616

2766 ~~regular assessments under s. 627.351(6)(b)3.a.~~ with respect to
2767 commercial residential policies is, for any calendar year in
2768 which such insurer increased its total commercial residential
2769 hurricane exposure by 25 percent or more over its exposure for
2770 the preceding calendar year, exempt from liability ~~regular~~
2771 ~~assessments under s. 627.351(6)(b)3.a.~~, but not emergency
2772 assessments collected from policyholders pursuant to s.
2773 627.351(6)(b)3.c. ~~s. 627.351(6)(b)3.e.~~, attributable to such
2774 increased exposure.

2775 Section 3. Subsections (5), (6), and (7) of section
2776 627.3518, Florida Statutes, are amended to read:

2777 627.3518 Citizens Property Insurance Corporation
2778 policyholder eligibility clearinghouse program.—The purpose of
2779 this section is to provide a framework for the corporation to
2780 implement a clearinghouse program by January 1, 2014.

2781 (5) Notwithstanding s. 627.3517, any applicant for new
2782 coverage from the corporation on a primary residence is not
2783 eligible for coverage from the corporation if provided an offer
2784 of coverage from an authorized insurer through the program at a
2785 premium that is at or below the eligibility threshold for
2786 applicants for new coverage established in s. 627.351(6)(c)5.a.
2787 An applicant for new coverage from the corporation on a risk
2788 that is not a primary residence is not eligible for coverage
2789 from the corporation if provided an offer of coverage from an
2790 authorized insurer through the program if such offer would
2791 render the risk ineligible pursuant to s. 627.351(6)(c)5.d.
2792 Whenever an offer of coverage for a personal lines risk that is
2793 a primary residence is received for a policyholder of the
2794 corporation at renewal from an authorized insurer through the



975616

2795 program which is at or below the eligibility threshold for
2796 policyholders of the corporation established in s.
2797 627.351(6)(c)5.a., the risk is not eligible for coverage with
2798 the corporation. Whenever an offer of coverage for a personal
2799 lines risk that is not a primary residence is received for a
2800 policyholder of the corporation at renewal from an authorized
2801 insurer through the program, the risk is not eligible for
2802 coverage with the corporation if such offer would render the
2803 risk ineligible pursuant to s. 627.351(6)(c)5.d. In the event an
2804 offer of coverage on a primary residence for a new applicant is
2805 received from an authorized insurer through the program, and the
2806 premium offered exceeds the eligibility threshold for applicants
2807 for new coverage established in s. 627.351(6)(c)5.a., the
2808 applicant or insured may elect to accept such coverage, or may
2809 elect to accept or continue coverage with the corporation. In
2810 the event an offer of coverage for a personal lines risk that is
2811 a primary residence is received from an authorized insurer at
2812 renewal through the program, and the premium offered exceeds the
2813 eligibility threshold for policyholders of the corporation
2814 established in s. 627.351(6)(c)5.a., the insured may elect to
2815 accept such coverage, or may elect to accept or continue
2816 coverage with the corporation. Section 627.351(6)(c)5.a.(I) does
2817 not apply to an offer of coverage from an authorized insurer
2818 obtained through the program. As used in this subsection, the
2819 term "primary residence" has the same meaning as in s.
2820 627.351(6)(c)2.a.

2821 (6) Independent insurance agents submitting new
2822 applications for coverage or that are the agent of record on a
2823 renewal policy submitted to the program:



975616

2824 (a) Are granted and must maintain ownership and the
2825 exclusive use of expirations, records, or other written or
2826 electronic information directly related to such applications or
2827 renewals written through the corporation or through an insurer
2828 participating in the program, notwithstanding s.

2829 627.351(6)(c)5.a.(I)(B) and (II)(B) or s.

2830 627.351(6)(c)5.d.(I)(B) and (II)(B). Such ownership is granted
2831 for as long as the insured remains with the agency or until sold
2832 or surrendered in writing by the agent. Contracts with the
2833 corporation or required by the corporation must not amend,
2834 modify, interfere with, or limit such rights of ownership. Such
2835 expirations, records, or other written or electronic information
2836 may be used to review an application, issue a policy, or for any
2837 other purpose necessary for placing such business through the
2838 program.

2839 (b) May not be required to be appointed by any insurer
2840 participating in the program for policies written solely through
2841 the program, notwithstanding the provisions of s. 626.112.

2842 (c) May accept an appointment from any insurer
2843 participating in the program.

2844 (d) May enter into either a standard or limited agency
2845 agreement with the insurer, at the insurer's option.

2846
2847 Applicants ineligible for coverage in accordance with subsection
2848 (5) remain ineligible if their independent agent is unwilling or
2849 unable to enter into a standard or limited agency agreement with
2850 an insurer participating in the program.

2851 (7) Exclusive agents submitting new applications for
2852 coverage or that are the agent of record on a renewal policy



975616

2853 submitted to the program:

2854 (a) Must maintain ownership and the exclusive use of
2855 expirations, records, or other written or electronic information
2856 directly related to such applications or renewals written
2857 through the corporation or through an insurer participating in
2858 the program, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and
2859 (II)(B) or s. 627.351(6)(c)5.d.(I)(B) and (II)(B). Contracts
2860 with the corporation or required by the corporation must not
2861 amend, modify, interfere with, or limit such rights of
2862 ownership. Such expirations, records, or other written or
2863 electronic information may be used to review an application,
2864 issue a policy, or for any other purpose necessary for placing
2865 such business through the program.

2866 (b) May not be required to be appointed by any insurer
2867 participating in the program for policies written solely through
2868 the program, notwithstanding the provisions of s. 626.112.

2869 (c) Must only facilitate the placement of an offer of
2870 coverage from an insurer whose limited servicing agreement is
2871 approved by that exclusive agent's exclusive insurer.

2872 (d) May enter into a limited servicing agreement with the
2873 insurer making an offer of coverage, and only after the
2874 exclusive agent's insurer has approved the limited servicing
2875 agreement terms. The exclusive agent's insurer must approve a
2876 limited service agreement for the program for any insurer for
2877 which it has approved a service agreement for other purposes.

2878
2879 Applicants ineligible for coverage in accordance with subsection
2880 (5) remain ineligible if their exclusive agent is unwilling or
2881 unable to enter into a standard or limited agency agreement with



2882 an insurer making an offer of coverage to that applicant.

2883 Section 4. This act shall take effect July 1, 2024.

2884

2885 ===== T I T L E A M E N D M E N T =====

2886 And the title is amended as follows:

2887 Delete everything before the enacting clause

2888 and insert:

2889 A bill to be entitled

2890 An act relating to Citizens Property Insurance

2891 Corporation; amending s. 627.351, F.S.; providing that

2892 certain accounts for Citizens Property Insurance

2893 Corporation revenues, assets, liabilities, losses, and

2894 expenses are now maintained as the Citizens account;

2895 revising the requirements for certain coverages by the

2896 corporation; requiring the inclusion of quota share

2897 primary insurance in certain policies; deleting

2898 provisions relating to legislative goals; revising the

2899 definition of the term "assessments"; deleting

2900 provisions relating to emergency assessments upon

2901 determination of projected deficits; deleting

2902 provisions relating to funds available to the

2903 corporation as sources of revenue and bonds; deleting

2904 definitions; deleting provisions relating to the

2905 duties of the Florida Surplus Lines Service Office;

2906 deleting provisions relating to disposition of excess

2907 amounts of assessments and surcharges; defining the

2908 terms "approved surplus lines insurer" and "primary

2909 residence"; providing applicability of certain

2910 provisions relating to personal lines residential



975616

2911 risks coverage by the corporation; revising
2912 eligibility for commercial lines residential risks
2913 coverage by the corporation; providing that commercial
2914 lines residential risks are not eligible for coverage
2915 by the corporation under certain circumstances;
2916 providing that comparisons of comparable coverages
2917 under certain personal lines residential risks and
2918 commercial lines residential risks do not apply to
2919 policies that do not cover primary residences;
2920 revising the corporation's plan of operation; revising
2921 the required statements from applicants for coverage;
2922 revising the duties of the executive director of the
2923 corporation; authorizing the executive director to
2924 assign and appoint designees; deleting a applicability
2925 provision relating to bond requirements; providing
2926 circumstances under which coverage rates are
2927 considered not competitive; revising the duties of the
2928 Office of Insurance Regulation relating to coverage
2929 rates; authorizing the corporation to pursue
2930 administrative challenges relating to coverage rates;
2931 revising requirements for coverage rate increases and
2932 coverage rates; authorizing assessed insureds of
2933 certain insurers to be relieved from assessments under
2934 certain circumstances; deleting provisions relating to
2935 certain insurer assessment deferrals; deleting
2936 provisions relating to the intangibles of and coverage
2937 by the Florida Windstorm Underwriting Association and
2938 the corporation coastal account; authorizing the
2939 corporation and certain persons to make specified



975616

2940 information obtained from underwriting files and
2941 confidential claims files available to licensed
2942 surplus lines agents; prohibiting such agents from
2943 using such information for specified purposes;
2944 providing applicability of provisions relating to
2945 take-out offers that are part of applications to
2946 participate in depopulation; authorizing the
2947 corporation to share its claims data with a specified
2948 entity; deleting provisions relating to resolutions of
2949 disputes and to determinations of risks ineligible for
2950 coverage; amending s. 627.3511, F.S.; conforming
2951 provisions to changes made by the act; conforming
2952 cross-references; amending s. 627.3518, F.S.; revising
2953 eligibility requirements for applicants for new
2954 coverage; defining the term "primary residence";
2955 providing an effective date.