

By Senator Hays

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1 A bill to be entitled
2 An act relating to the Citizens Property Insurance
3 Corporation; amending s. 627.0655, F.S.; discontinuing
4 policy discounts relating to the Citizens Property
5 Insurance Corporation after a certain date; amending
6 s. 627.351, F.S.; revising legislative intent;
7 providing that certain residential structures are not
8 eligible for coverage by the corporation after a
9 certain date; directing the corporation to provide
10 coverage to certain excluded residential structures
11 but at rates deemed appropriate by the corporation;
12 requiring policies issued by the corporation to
13 include a provision that prohibits policyholders from
14 engaging the services of a public adjuster until after
15 the corporation has tendered an offer; revising the
16 amount of an adjuster's fee for a claim against the
17 corporation; specifying the percentage amount of
18 emergency assessments; providing legislative intent
19 with respect to policyholder surcharges; deleting a
20 requirement that the corporation adopt a program
21 relating to quota share primary insurance agreements
22 for eligible risks; revising provisions relating to
23 wind coverage; prohibiting the corporation from
24 accepting applications for commercial nonresidential
25 risks; providing that policies do not include coverage
26 for screen enclosures or any structure detached from
27 the house; providing that the corporation does not
28 cover specified personal property; limiting coverage
29 for damage from sinkholes and providing that the

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corporation must require repair of the property as a condition of any payment; providing that the corporation operates as a residual market mechanism; revising provisions relating to corporation rates; providing that eligible surplus lines insurers may participate in take-out programs under certain conditions; clarifying that the corporation is immune from certain liabilities; revising requirements relating to confidential records released by an insurer; requiring owners of properties in special flood hazard areas to maintain a separate flood insurance policy after a certain date; providing exceptions; amending s. 627.3511, F.S.; conforming cross-references; providing an effective date.

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

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

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

(1) From the same insurer or insurer group;

(2) For policies issued or renewed before January 1, 2014,
from the Citizens Property Insurance Corporation created under

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s. 627.351(6) if the same insurance agent is servicing both policies;~~;~~ or

(3) For policies issued or renewed before January 1, 2014, from an insurer that has removed the policy from the Citizens Property Insurance Corporation if the same insurance agent is servicing both policies.

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

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

1. The Legislature finds that actual and threatened catastrophic losses to property from hurricanes in this state have caused insurers to be unwilling or unable to provide property insurance coverage to the extent sought and needed. The Legislature declares that it is in the public interest and serves a public purpose that property in this state be adequately insured in order to facilitate the remediation, reconstruction, and replacement of damaged or destroyed property. Such efforts are necessary in order to avoid or reduce negative effects to the public health, safety, and welfare; the economy of the state; and the revenues of state and local governments. It is necessary, therefore, to provide property insurance to applicants who are entitled to procure insurance through the voluntary market but who, in good faith, are unable to do so. ~~The Legislature finds that private insurers are~~

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~~unwilling or unable to provide affordable property insurance coverage in this state to the extent sought and needed. The absence of affordable property insurance threatens the public health, safety, and welfare and likewise threatens the economic health of the state. The state therefore has a compelling public interest and a public purpose to assist in assuring that property in the state is insured and that it is insured at affordable rates so as to facilitate the remediation, reconstruction, and replacement of damaged or destroyed property in order to reduce or avoid the negative effects otherwise resulting to the public health, safety, and welfare, to the economy of the state, and to the revenues of the state and local governments which are needed to provide for the public welfare. It is necessary, therefore, to provide affordable property insurance to applicants who are in good faith entitled to procure insurance through the voluntary market but are unable to do so. The Legislature intends, therefore, that affordable property insurance be provided and that it continue to be provided, as long as necessary, through Citizens Property Insurance Corporation, a government entity that is an integral part of the state, and that is not a private insurance company. To that end, the corporation shall strive to increase the availability of affordable property insurance in this state, while achieving efficiencies and economies, and while providing service to policyholders, applicants, and agents which is no less than the quality generally provided in the voluntary market, for the achievement of the foregoing public purposes. Because it is essential for this government entity to have the maximum financial resources to pay claims following a~~

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~~eatastrophic hurricane, it is the intent of the Legislature that the corporation continue to be an integral part of the state and that the income of the corporation be exempt from federal income taxation and that interest on the debt obligations issued by the corporation be exempt from federal income taxation.~~

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

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

2. The Residential Property and Casualty Joint Underwriting Association originally created by this statute shall be known as the Citizens Property Insurance Corporation. The corporation shall provide insurance for residential and commercial property, for applicants who are entitled, but, in good faith, are unable to procure insurance through the voluntary market. The corporation shall operate pursuant to a plan of operation approved by order of the Financial Services Commission. The plan

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146 is subject to continuous review by the commission. The
147 commission may, by order, withdraw approval of all or part of a
148 plan if the commission determines that conditions have changed
149 since approval was granted and that the purposes of the plan
150 require changes in the plan. For the purposes of this
151 subsection, residential coverage includes both personal lines
152 residential coverage, which consists of the type of coverage
153 provided by homeowner's, mobile home owner's, dwelling,
154 tenant's, condominium unit owner's, and similar policies; and
155 commercial lines residential coverage, which consists of the
156 type of coverage provided by condominium association, apartment
157 building, and similar policies.

158 3. With respect to coverage for personal lines residential
159 structures:

160 a. Effective January 1, 2009, a ~~personal lines residential~~
161 structure that has a dwelling replacement cost of \$2 million or
162 more, or a single condominium unit that has a combined dwelling
163 and contents replacement cost of \$2 million or more is not
164 eligible for coverage by the corporation. Such dwellings insured
165 by the corporation on December 31, 2008, may continue to be
166 covered by the corporation until the end of the policy term.
167 However, such dwellings may reapply and obtain coverage if the
168 property owner provides the corporation with a sworn affidavit
169 from one or more insurance agents, on a form provided by the
170 corporation, stating that the agents have made their best
171 efforts to obtain coverage and that the property has been
172 rejected for coverage by at least one authorized insurer and at
173 least three surplus lines insurers. If such conditions are met,
174 the dwelling may be insured by the corporation for up to 3

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175 years, after which time the dwelling is ineligible for coverage.
176 ~~The office shall approve the method used by the corporation for~~
177 ~~valuing the dwelling replacement cost for the purposes of this~~
178 ~~subparagraph. If a policyholder is insured by the corporation~~
179 ~~prior to being determined to be ineligible pursuant to this~~
180 ~~subparagraph and such policyholder files a lawsuit challenging~~
181 ~~the determination, the policyholder may remain insured by the~~
182 ~~corporation until the conclusion of the litigation.~~

183 b. Effective January 1, 2013, a structure that has a
184 dwelling replacement cost of \$1 million or more, or a single
185 condominium unit that has a combined dwelling and contents
186 replacement cost of \$1 million or more is not eligible for
187 coverage by the corporation. Such dwellings insured by the
188 corporation on December 31, 2012, may continue to be covered by
189 the corporation only until the end of the policy term.

190 c. Effective January 1, 2015, a structure insured in the
191 personal lines account of the corporation that has a dwelling
192 replacement cost of \$750,000 or more, or a single condominium
193 unit that has a combined dwelling and contents replacement cost
194 of \$750,000 or more is not eligible for coverage by the
195 corporation. Such dwellings insured by the corporation on
196 December 31, 2014, may continue to be covered by the corporation
197 until the end of the policy term.

198 d. Effective January 1, 2017, a structure insured in the
199 personal lines account of the corporation that has a dwelling
200 replacement cost of \$500,000 or more, or a single condominium
201 unit that has a combined dwelling and contents replacement cost
202 of \$500,000 or more is not eligible for coverage by the
203 corporation. Such dwellings insured by the corporation on

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December 31, 2016, may continue to be covered by the corporation until the end of the policy term.

4. Any structure for which a permit for construction is obtained on or after June 1, 2012, seaward of the coastal construction control line established pursuant to s. 161.053, is not eligible for coverage by the corporation.

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

5. Effective October 1, 2012 ~~January 1, 2009~~, a personal lines residential structure that is located in the "wind-borne debris region," as defined in s. 1609.2, International Building Code (2006), and that has an insured value on the structure of \$750,000 or more is ~~not~~ eligible for coverage by the corporation. However, unless the structure has opening protections as required under the Florida Building Code for a newly constructed residential structure in that area, the corporation may charge a surcharge that it deems appropriate for such structures, notwithstanding any restrictions on rates provided in this subsection or in s. 627.062. A residential structure shall be deemed to comply with this subparagraph if it has shutters or opening protections on all openings and if such opening protections complied with the Florida Building Code at

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the time they were installed.

6. In recognition of the corporation's status as a government entity, policies issued by the corporation must include a provision stating that as a condition of coverage with the corporation, policyholders may not engage the services of a public adjuster to represent the policyholder with respect to any claim filed under a policy issued by the corporation until after the corporation has tendered an offer with respect to such claim. For any claim filed under any policy of the corporation, a public adjuster may not request payment or be paid, on a contingency basis or based in any way, directly or indirectly, on a percentage of the claim amount, and may be paid only a reasonable hourly fee based on the actual hours of work performed, subject to a maximum of 5 ~~charge, agree to, or accept any compensation, payment, commission, fee, or other thing of value greater than 10~~ percent of the additional amount actually paid over the amount that was originally offered by the corporation for any one claim.

(b)1. All insurers authorized to write one or more subject lines of business in this state are subject to assessment by the corporation and, for the purposes of this subsection, are referred to collectively as "assessable insurers." Insurers writing one or more subject lines of business in this state pursuant to part VIII of chapter 626 are not assessable insurers, but insureds who procure one or more subject lines of business in this state pursuant to part VIII of chapter 626 are subject to assessment by the corporation and are referred to collectively as "assessable insureds." An insurer's assessment liability begins on the first day of the calendar year following

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the year in which the insurer was issued a certificate of authority to transact insurance for subject lines of business in this state and terminates 1 year after the end of the first calendar year during which the insurer no longer holds such a certificate of authority ~~to transact insurance for subject lines of business in this state.~~

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

(I) A personal lines account for personal residential policies issued by the corporation, or issued by the Residential Property and Casualty Joint Underwriting Association and renewed by the corporation, which provides comprehensive, multiperil coverage on risks that are not located in areas eligible for coverage by the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002, and for policies that do not provide coverage for the peril of wind on risks that are located in such areas;

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

(III) A coastal account for personal residential policies

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and commercial residential and commercial nonresidential property policies issued by the corporation, or transferred to the corporation, which provides coverage for the peril of wind on risks that are located in areas eligible for coverage by the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002. The corporation may offer policies that provide multiperil coverage and the corporation shall continue to offer policies that provide coverage only for the peril of wind for risks located in areas eligible for coverage in the coastal account. In issuing multiperil coverage, the corporation may use its approved policy forms and rates for the personal lines account. An applicant or insured who is eligible to purchase a multiperil policy from the corporation may purchase a multiperil policy from an authorized insurer without prejudice to the applicant's or insured's eligibility to prospectively purchase a policy that provides coverage only for the peril of wind from the corporation. An applicant or insured who is eligible for a corporation policy that provides coverage only for the peril of wind may elect to purchase or retain such policy and also purchase or retain coverage excluding wind from an authorized insurer without prejudice to the applicant's or insured's eligibility to prospectively purchase a policy that provides multiperil coverage from the corporation. ~~It is the goal of the Legislature that there be an overall average savings of 10 percent or more for a policyholder who currently has a wind-only policy with the corporation, and an ex-wind policy with a voluntary insurer or the corporation, and who obtains a multiperil policy from the corporation.~~ It is the intent of the Legislature that the offer of multiperil coverage in the coastal

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320 account be made and implemented in a manner that does not
321 adversely affect the tax-exempt status of the corporation or
322 creditworthiness of or security for currently outstanding
323 financing obligations or credit facilities of the coastal
324 account, the personal lines account, or the commercial lines
325 account. ~~The coastal account must also include quota share~~
326 ~~primary insurance under subparagraph (c)2.~~ The area eligible for
327 coverage under the coastal account also includes the area within
328 Port Canaveral, which is bordered on the south by the City of
329 Cape Canaveral, bordered on the west by the Banana River, and
330 bordered on the north by Federal Government property.

331 b. The three separate accounts must be maintained as long
332 as financing obligations entered into by the Florida Windstorm
333 Underwriting Association or Residential Property and Casualty
334 Joint Underwriting Association are outstanding, in accordance
335 with the terms of the corresponding financing documents. If the
336 financing obligations are no longer outstanding, the corporation
337 may use a single account for all revenues, assets, liabilities,
338 losses, and expenses of the corporation. Consistent with this
339 subparagraph and prudent investment policies that minimize the
340 cost of carrying debt, the board shall exercise its best efforts
341 to retire existing debt or obtain the approval of necessary
342 parties to amend the terms of existing debt, so as to structure
343 the most efficient plan to consolidate the three separate
344 accounts into a single account.

345 c. Creditors of the Residential Property and Casualty Joint
346 Underwriting Association and the accounts specified in sub-sub-
347 subparagraphs a.(I) and (II) may have a claim against, and
348 recourse to, those accounts and no claim against, or recourse

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349 to, the account referred to in sub-sub-subparagraph a.(III).
350 Creditors of the Florida Windstorm Underwriting Association have
351 a claim against, and recourse to, the account referred to in
352 sub-sub-subparagraph a.(III) and no claim against, or recourse
353 to, the accounts referred to in sub-sub-subparagraphs a.(I) and
354 (II).

355 d. Revenues, assets, liabilities, losses, and expenses not
356 attributable to particular accounts shall be prorated among the
357 accounts.

358 e. The Legislature finds that the revenues of the
359 corporation ~~are revenues that~~ are necessary to meet the
360 requirements set forth in documents authorizing the issuance of
361 bonds under this subsection.

362 f. No part of the income of the corporation may inure to
363 the benefit of any private person.

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

365 a. After accounting for the ~~Citizens~~ policyholder surcharge
366 imposed under sub-subparagraph h., if the remaining projected
367 deficit incurred in a particular calendar year:

368 (I) Is not greater than 6 percent of the aggregate
369 statewide direct written premium for the subject lines of
370 business for the prior calendar year, the entire deficit shall
371 be recovered through regular assessments of assessable insurers
372 under paragraph (q) and assessable insureds.

373 (II) Exceeds 6 percent of the aggregate statewide direct
374 written premium for the subject lines of business for the prior
375 calendar year, the corporation shall levy regular assessments on
376 assessable insurers under paragraph (q) and on assessable
377 insureds in an amount equal to the greater of 6 percent of the

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378 deficit or 6 percent of the aggregate statewide direct written
379 premium for the subject lines of business for the prior calendar
380 year. Any remaining deficit shall be recovered through emergency
381 assessments under sub-subparagraph c.

382 b. Each assessable insurer's share of the amount being
383 assessed under sub-subparagraph a. must be in the proportion
384 that the assessable insurer's direct written premium for the
385 subject lines of business for the year preceding the assessment
386 bears to the aggregate statewide direct written premium for the
387 subject lines of business for that year. The applicable
388 assessment percentage ~~applicable to each assessable insured~~ is
389 the ratio of the amount being assessed under sub-subparagraph a.
390 to the aggregate statewide direct written premium for the
391 subject lines of business for the prior year. Assessments levied
392 by the corporation on assessable insurers under sub-subparagraph
393 a. must be paid as required by the corporation's plan of
394 operation and paragraph (q). Assessments levied by the
395 corporation on assessable insureds under sub-subparagraph a.
396 shall be collected by the surplus lines agent at the time the
397 surplus lines agent collects the surplus lines tax required by
398 s. 626.932, and paid to the Florida Surplus Lines Service Office
399 at the time the surplus lines agent pays the surplus lines tax
400 to that office. Upon receipt of ~~regular assessments from surplus~~
401 ~~lines agents~~, the Florida Surplus Lines Service Office shall
402 transfer the assessments directly to the corporation as
403 determined by the corporation.

404 c. Upon a determination by the board of governors that a
405 deficit in an account exceeds the amount that will be recovered
406 through regular assessments under sub-subparagraph a., plus the

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amount that is expected to be recovered through surcharges under sub-subparagraph h., the board, after verification by the office, shall levy emergency assessments for as many years as necessary to cover the deficits, to be collected by assessable insurers and the corporation and collected from assessable insureds upon issuance or renewal of policies for subject lines of business, excluding National Flood Insurance policies. The amount collected in a particular year must be a uniform percentage of that year's direct written premium for subject lines of business ~~and all accounts of the corporation~~, excluding National Flood Insurance Program policy premiums, as annually determined by the board and verified by the office. For all accounts of the corporation, the amount of the emergency assessment levied in a particular year must be a uniform percentage equal to 1 and 1/2 times the uniform percentage emergency assessment levied on subject lines of business. The office shall verify the arithmetic calculations involved in the board's determination within 30 days after receipt of the information on which the determination was based.

Notwithstanding any other provision of law, the corporation and each assessable insurer that writes subject lines of business shall collect emergency assessments from its policyholders without such obligation being affected by any credit, limitation, exemption, or deferment. Emergency assessments levied by the corporation on assessable insureds shall be collected by the surplus lines agent at the time the surplus lines agent collects the surplus lines tax required by s. 626.932 and paid to the Florida Surplus Lines Service Office at the time the surplus lines agent pays the surplus lines tax to

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436 that office. The emergency assessments collected shall be
437 transferred directly to the corporation on a periodic basis as
438 determined by the corporation and held by the corporation solely
439 in the applicable account. The aggregate amount of emergency
440 assessments levied for an account under this sub-subparagraph in
441 any calendar year may be less than but not exceed the greater of
442 10 percent of the amount needed to cover the deficit, plus
443 interest, fees, commissions, required reserves, and other costs
444 associated with financing the original deficit, or 10 percent of
445 the aggregate statewide direct written premium for subject lines
446 of business and 15 percent for all accounts of the corporation
447 for the prior year, plus interest, fees, commissions, required
448 reserves, and other costs associated with financing the deficit.

449 d. The corporation may pledge the proceeds of assessments,
450 projected recoveries from the Florida Hurricane Catastrophe
451 Fund, other insurance and reinsurance recoverables, policyholder
452 surcharges and other surcharges, and other funds available to
453 the corporation as the source of revenue for and to secure bonds
454 issued under paragraph (q), bonds or other indebtedness issued
455 under subparagraph (c)2. ~~(e)3.~~, or lines of credit or other
456 financing mechanisms issued or created under this subsection, or
457 to retire any other debt incurred as a result of deficits or
458 events giving rise to deficits, or in any other way that the
459 board determines will efficiently recover such deficits. The
460 purpose of the lines of credit or other financing mechanisms is
461 to provide additional resources to assist the corporation in
462 covering claims and expenses attributable to a catastrophe. As
463 used in this subsection, the term "assessments" includes regular
464 assessments under sub-subparagraph a. or subparagraph (q)1. and

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465 emergency assessments under sub-subparagraph d. Emergency
466 assessments collected under sub-subparagraph d. are not part of
467 an insurer's rates, are not premium, and are not subject to
468 premium tax, fees, or commissions; however, failure to pay the
469 emergency assessment shall be treated as failure to pay premium.
470 The emergency assessments under sub-subparagraph c. shall
471 continue as long as any bonds issued or other indebtedness
472 incurred with respect to a deficit for which the assessment was
473 imposed remain outstanding, unless adequate provision has been
474 made for the payment of such bonds or other indebtedness
475 pursuant to the documents governing such bonds or indebtedness.

476 e. As used in this subsection for purposes of any deficit
477 incurred on or after January 25, 2007, the term "subject lines
478 of business" means insurance written by assessable insurers or
479 procured by assessable insureds for all property and casualty
480 lines of business in this state, but not including workers'
481 compensation or medical malpractice. As used in this sub-
482 subparagraph, the term "property and casualty lines of business"
483 includes all lines of business identified on Form 2, Exhibit of
484 Premiums and Losses, in the annual statement required of
485 authorized insurers under s. 624.424 and any rule adopted under
486 this section, except for those lines identified as accident and
487 health insurance and except for policies written under the
488 National Flood Insurance Program or the Federal Crop Insurance
489 Program. For purposes of this sub-subparagraph, the term
490 "workers' compensation" includes both workers' compensation
491 insurance and excess workers' compensation insurance.

492 f. The Florida Surplus Lines Service Office shall determine
493 annually the aggregate statewide written premium in subject

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494 lines of business procured by assessable insureds and report
495 that information to the corporation in a form and at a time the
496 corporation specifies to ensure that the corporation can meet
497 the requirements of this subsection and the corporation's
498 financing obligations.

499 g. The Florida Surplus Lines Service Office shall verify
500 the proper application by surplus lines agents of assessment
501 percentages for regular assessments and emergency assessments
502 levied under this subparagraph on assessable insureds and assist
503 the corporation in ensuring the accurate, timely collection and
504 payment of assessments by surplus lines agents as required by
505 the corporation.

506 h. If a deficit is incurred in any account in 2012 ~~2008~~ or
507 thereafter, the board of governors shall levy a ~~Citizens~~
508 policyholder surcharge against all policyholders of the
509 corporation.

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

513 (II) It is the intent of the Legislature that the
514 policyholder's liability for the surcharge attach on the date of
515 the order levying the surcharge. The surcharge is payable upon
516 cancellation or termination of the policy, upon renewal of the
517 policy, or upon issuance of a new policy by the corporation
518 within the first 12 months after the date of the levy or the
519 period of time necessary to fully collect the surcharge amount.

520 (III) The corporation may not levy any regular assessments
521 under paragraph (q) pursuant to sub-subparagraph a. or sub-
522 subparagraph b. with respect to a particular year's deficit

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until the corporation has first levied the full amount of the surcharge authorized by this sub-subparagraph.

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

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

(c) The corporation's plan of operation:

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

a. Standard personal lines policy forms that are similar ~~comprehensive multiperil policies providing full coverage of a residential property equivalent~~ to the coverage provided in the private insurance market under an HO-3, HO-4, or HO-6 policy. The corporation shall cease to offer or renew HO-3 policy forms on December 31, 2013.

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

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standard policy.

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

d. Personal lines and commercial lines residential property insurance forms that cover the peril of wind only. The forms apply ~~are applicable~~ only to residential properties located in areas eligible for coverage under the coastal account referred to in sub-subparagraph (b)2.a.

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

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

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

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

~~(I) "Quota share primary insurance" means an arrangement in which the primary hurricane coverage of an eligible risk is provided in specified percentages by the corporation and an~~

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~~authorized insurer. The corporation and authorized insurer are each solely responsible for a specified percentage of hurricane coverage of an eligible risk as set forth in a quota share primary insurance agreement between the corporation and an authorized insurer and the insurance contract. The responsibility of the corporation or authorized insurer to pay its specified percentage of hurricane losses of an eligible risk, as set forth in the agreement, may not be altered by the inability of the other party to pay its specified percentage of losses. Eligible risks that are provided hurricane coverage through a quota share primary insurance arrangement must be provided policy forms that set forth the obligations of the corporation and authorized insurer under the arrangement, clearly specify the percentages of quota share primary insurance provided by the corporation and authorized insurer, and conspicuously and clearly state that the authorized insurer and the corporation may not be held responsible beyond their specified percentage of coverage of hurricane losses.~~

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

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

~~c. If the corporation determines that additional coverage levels are necessary to maximize participation in quota share primary insurance agreements by authorized insurers, the~~

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610 ~~corporation may establish additional coverage levels. However,~~
611 ~~the corporation's quota share primary insurance coverage level~~
612 ~~may not exceed 90 percent.~~

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

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

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

635 ~~g. The corporation board shall establish in its plan of~~
636 ~~operation standards for quota share agreements which ensure that~~
637 ~~there is no discriminatory application among insurers as to the~~
638 ~~terms of the agreements, pricing of the agreements, incentive~~

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provisions if any, and consideration paid for servicing policies or adjusting claims.

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

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

a. The corporation may borrow funds by issuing bonds or by incurring other indebtedness, and shall have other powers reasonably necessary to effectuate the requirements of this subsection, including, ~~without limitation,~~ the power to issue bonds and incur other indebtedness in order to refinance outstanding bonds or other indebtedness. The corporation may seek judicial validation of its bonds or other indebtedness under chapter 75. The corporation may issue bonds or incur other indebtedness, or have bonds issued on its behalf by a unit of local government pursuant to subparagraph (q)2. in the absence

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668 of a hurricane or other weather-related event, upon a
669 determination by the corporation, subject to approval by the
670 office, that such action would enable it to efficiently meet the
671 financial obligations of the corporation and that such
672 financings are reasonably necessary to effectuate the
673 requirements of this subsection. The corporation may take all
674 actions needed to facilitate tax-free status for such bonds or
675 indebtedness, including formation of trusts or other affiliated
676 entities. The corporation may pledge assessments, projected
677 recoveries from the Florida Hurricane Catastrophe Fund, other
678 reinsurance recoverables, market equalization and other
679 surcharges, and other funds available to the corporation as
680 security for bonds or other indebtedness. In recognition of s.
681 10, Art. I of the State Constitution, prohibiting the impairment
682 of obligations of contracts, it is the intent of the Legislature
683 that no action be taken whose purpose is to impair any bond
684 indenture or financing agreement or any revenue source committed
685 by contract to such bond or other indebtedness.

686 b. To ensure that the corporation is operating in an
687 efficient and economic manner while providing quality service to
688 policyholders, applicants, and agents, the board shall
689 commission an independent third-party consultant having
690 expertise in insurance company management or insurance company
691 management consulting to prepare a report and make
692 recommendations on the relative costs and benefits of
693 outsourcing various policy issuance and service functions to
694 private servicing carriers or entities performing similar
695 functions in the private market for a fee, rather than
696 performing such functions in-house. In making such

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697 recommendations, the consultant shall consider how other
698 residual markets, both in this state and around the country,
699 outsource appropriate functions or use servicing carriers to
700 better match expenses with revenues that fluctuate based on a
701 widely varying policy count. The report must be completed by
702 July 1, 2012. Upon receiving the report, the board shall develop
703 a plan to implement the report and submit the plan for review,
704 modification, and approval to the Financial Services Commission.
705 The commission has 30 days after receiving the plan to review
706 and make additions or corrections, if any. Upon the commission's
707 approval of the plan, the board shall begin implementing the
708 plan by January 1, 2013.

709 3.4. Must require that the corporation operate subject to
710 the supervision and approval of a board of governors consisting
711 of eight individuals who are residents of this state, from
712 different geographical areas of this state.

713 a. The Governor, the Chief Financial Officer, the President
714 of the Senate, and the Speaker of the House of Representatives
715 shall each appoint two members of the board. At least one of the
716 two members appointed by each appointing officer must have
717 demonstrated expertise in insurance and is deemed to be within
718 the scope of the exemption provided in s. 112.313(7)(b). The
719 Chief Financial Officer shall designate one of the appointees as
720 chair. All board members serve at the pleasure of the appointing
721 officer. All members of the board are subject to removal at will
722 by the officers who appointed them. All board members, including
723 the chair, must be appointed to serve for 3-year terms beginning
724 annually on a date designated by the plan. However, for the
725 first term beginning on or after July 1, 2009, each appointing

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officer shall appoint one member of the board for a 2-year term and one member for a 3-year term. A board vacancy shall be filled for the unexpired term by the appointing officer. The Chief Financial Officer shall appoint a technical advisory group to provide information and advice to the board in connection with the board's duties under this subsection. The executive director and senior managers of the corporation shall be engaged by the board and serve at the pleasure of the board. Any executive director appointed on or after July 1, 2006, is subject to confirmation by the Senate. The executive director is responsible for employing other staff as the corporation may require, subject to review and concurrence by the board.

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

(I) The members of the advisory committee consist of the following 11 persons, one of whom must be elected chair by the members of the committee: four representatives, one appointed by the Florida Association of Insurance Agents, one by the Florida Association of Insurance and Financial Advisors, one by the Professional Insurance Agents of Florida, and one by the Latin American Association of Insurance Agencies; three representatives appointed by the insurers with the three highest voluntary market share of residential property insurance business in the state; one representative from the Office of Insurance Regulation; one consumer appointed by the board who is

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insured by the corporation at the time of appointment to the committee; one representative appointed by the Florida Association of Realtors; and one representative appointed by the Florida Bankers Association. All members shall be appointed to 3-year terms and may serve for consecutive terms.

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

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

a. Subject to s. 627.3517, with respect to personal lines residential risks, if the risk is offered coverage from an authorized insurer at the insurer's approved rate under a standard policy including wind coverage or, if consistent with the insurer's underwriting rules as filed with the office, a basic policy including wind coverage, for a new application to the corporation for coverage, the risk is not eligible for any policy issued by the corporation ~~unless the premium for coverage from the authorized insurer is more than 15 percent greater than the premium for comparable coverage from the corporation~~. If the risk is not able to obtain such offer, the risk is eligible for a standard policy including wind coverage or a basic policy including wind coverage issued by the corporation; however, if the risk could not be insured under a standard policy including wind coverage regardless of market conditions, the risk is

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784 eligible for a basic policy including wind coverage unless
785 rejected under subparagraph 9. 8. Notwithstanding these
786 limitations, an application for coverage having an effective
787 date before January 1, 2016, is eligible for coverage by the
788 corporation if the premium for coverage from an authorized
789 insurer exceeds the premium from the corporation by more than 25
790 percent. ~~However, a policyholder of the corporation or a~~
791 ~~policyholder removed from the corporation through an assumption~~
792 ~~agreement until the end of the assumption period remains~~
793 ~~eligible for coverage from the corporation regardless of any~~
794 ~~offer of coverage from an authorized insurer or surplus lines~~
795 ~~insurer.~~ The corporation shall determine the type of policy to
796 be provided on the basis of objective standards specified in the
797 underwriting manual and based on generally accepted underwriting
798 practices.

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

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

811 (B) Offer to allow the producing agent ~~of record of the~~
812 ~~policy~~ to continue servicing the policy for at least 1 year and

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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).

(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. Subject to s. 627.3517, 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

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the corporation ~~unless the premium for coverage from the~~
~~authorized insurer is more than 15 percent greater than the~~
~~premium for comparable coverage from the corporation.~~ If the
risk is not able to obtain any such offer, the risk is eligible
for a policy including wind coverage issued by the corporation.
Notwithstanding these limitations, an application for coverage
having an effective date before January 1, 2016, is eligible for
coverage by the corporation if the premium for coverage from an
authorized insurer exceeds the premium from the corporation by
more than 25 percent. ~~However, a policyholder of the corporation~~
~~or a policyholder removed from the corporation through an~~
~~assumption agreement until the end of the assumption period~~
~~remains eligible for coverage from the corporation regardless of~~
~~an offer of coverage from an authorized insurer or surplus lines~~
~~insurer.~~

(I) If the risk accepts an offer of coverage through the
market assistance plan or through a mechanism established by the
corporation before a policy is issued to the risk by the
corporation or during the first 30 days of coverage by the
corporation, and the producing agent who submitted the
application to the plan or the corporation is not currently
appointed by the insurer, the insurer shall:

(A) Pay to the producing agent ~~of record of the policy,~~ 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 of the~~
~~policy~~ to continue servicing the policy for at least 1 year and

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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).

(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).

c. Effective upon this act becoming a law, the corporation shall cease to accept applications for or issue new policies covering commercial nonresidential risks. ~~For purposes of determining comparable coverage under sub-subparagraphs a. and b., the comparison must be based on those forms and coverages~~

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that are reasonably comparable. The corporation may rely on a determination of comparable coverage and premium made by the producing agent who submits the application to the corporation, made in the agent's capacity as the corporation's agent. A comparison may be made solely of the premium with respect to the main building or structure only on the following basis: the same coverage A or other building limits; the same percentage hurricane deductible that applies on an annual basis or that applies to each hurricane for commercial residential property; the same percentage of ordinance and law coverage, if the same limit is offered by both the corporation and the authorized insurer; the same mitigation credits, to the extent the same types of credits are offered both by the corporation and the authorized insurer; the same method for loss payment, such as replacement cost or actual cash value, if the same method is offered both by the corporation and the authorized insurer in accordance with underwriting rules; and any other form or coverage that is reasonably comparable as determined by the board. If an application is submitted to the corporation for wind-only coverage in the coastal account, the premium for the corporation's wind-only policy plus the premium for the ex-wind policy that is offered by an authorized insurer to the applicant must be compared to the premium for multiperil coverage offered by an authorized insurer, subject to the standards for comparison specified in this subparagraph. If the corporation or the applicant requests from the authorized insurer a breakdown of the premium of the offer by types of coverage so that a comparison may be made by the corporation or its agent and the authorized insurer refuses or is unable to provide such

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~~information, the corporation may treat the offer as not being an offer of coverage from an authorized insurer at the insurer's approved rate.~~

5.6. Must include rules for classifications of risks and rates.

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

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

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

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

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

8.9. Must provide that the corporation make its best efforts to procure catastrophe reinsurance at reasonable rates,

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to cover its projected 100-year probable maximum loss as determined by the board of governors.

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

~~10.11. Corporation policies and applications~~ Must include a
notice in the corporation policies and applications that the
corporation policy could, under this section, be replaced with a
policy issued by an ~~authorized~~ insurer which does not provide
coverage identical to the coverage provided by the corporation.
The notice must also specify that acceptance of corporation
coverage creates a conclusive presumption that the applicant or
policyholder is aware of this potential.

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

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if applicable, the lender.

12.13. Must provide that, with respect to the coastal account, any assessable insurer with a surplus as to policyholders of \$25 million or less writing 25 percent or more of its total countrywide property insurance premiums in this state may petition the office, within the first 90 days of each calendar year, to qualify as a limited apportionment company. A regular assessment levied by the corporation on a limited apportionment company for a deficit incurred by the corporation for the coastal account may be paid to the corporation on a monthly basis as the assessments are collected by the limited apportionment company from its insureds pursuant to s. 627.3512, but the regular assessment must be paid in full within 12 months after being levied by the corporation. A limited apportionment company shall collect from its policyholders any emergency assessment imposed under sub-subparagraph (b)3.d. ~~The plan must provide that,~~ If the office determines that any regular assessment will result in an impairment of the surplus of a limited apportionment company, the office may direct that all or part of such assessment be deferred as provided in subparagraph (q)4. However, an emergency assessment to be collected from policyholders under sub-subparagraph (b)3.d. may not be limited or deferred.

13.14. Must provide that the corporation appoint as its licensed agents only those agents who also hold an appointment as defined in s. 626.015(3) with an insurer who ~~at the time of the agent's initial appointment by the corporation~~ is authorized to write and is actually writing personal lines residential property coverage, commercial residential property coverage, or

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commercial nonresidential property coverage within the state.

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

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

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

~~17.18.~~ May require commercial property to meet specified hurricane mitigation construction features as a condition of eligibility for coverage.

~~18.19.~~ Must provide that new or renewal policies issued by the corporation on or after January 1, 2012, which cover sinkhole loss do not include coverage for any loss to appurtenant structures, driveways, sidewalks, decks, or patios that are directly or indirectly caused by sinkhole activity. The corporation shall exclude such coverage using a notice of coverage change, which may be included with the policy renewal, and not by issuance of a notice of nonrenewal of the excluded coverage upon renewal of the current policy.

~~19.20.~~ As of January 1, 2012, must require that the agent obtain from an applicant for coverage from the corporation an acknowledgement signed by the applicant, which includes, at a minimum, the following statement:

ACKNOWLEDGEMENT OF POTENTIAL SURCHARGE
AND ASSESSMENT LIABILITY:

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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, WHICH WILL BE DUE AND PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA LEGISLATURE.

2. I ALSO 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.

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

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

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

20. Upon notice and determination by the Department of Financial Services that an agent appointed by the corporation

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has violated s. 626.9541(1)(h), must provide for the immediate termination of the agent's appointment to represent the corporation.

21. Must provide that new or renewal policies issued by the corporation on or after February 1, 2013, do not include coverage for attached or detached screen enclosures. The corporation shall exclude such coverage using a notice of coverage change, which may be included with the policy renewal, and not by issuance of a notice of nonrenewal of the excluded coverage upon renewal of the current policy.

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

23. Must provide that new or renewal personal residential policies issued by the corporation on or after February 1, 2014, do not provide coverage for watercraft, trailers, jewelry, furs, firearms, silverware, business property on premises, business property away from premises, or grave markers.

24. Must provide, as a condition for making payment for damage caused by the peril of sinkhole, regardless of whether such payment is made pursuant to the contract, mediation, neutral evaluation, appraisal, arbitration, settlement, or litigation, that the payment be dedicated entirely to the costs of repairing the structure or remediation of the land. Unless this condition is met, the corporation is prohibited from making

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1103 payment.

1104 (d)1. All prospective employees for senior management
1105 positions, as defined by the plan of operation, are subject to
1106 background checks as a prerequisite for employment. The office
1107 shall conduct the background checks pursuant to ss. 624.34,
1108 624.404(3), and 628.261.

1109 2. On or before July 1 of each year, employees of the
1110 corporation must sign and submit a statement attesting that they
1111 do not have a conflict of interest, as defined in part III of
1112 chapter 112. As a condition of employment, all prospective
1113 employees must sign and submit to the corporation a conflict-of-
1114 interest statement.

1115 3. Senior managers and members of the board of governors
1116 are subject to part III of chapter 112, including, but not
1117 limited to, the code of ethics and public disclosure and
1118 reporting of financial interests, pursuant to s. 112.3145.
1119 Notwithstanding s. 112.3143(2), a board member may not vote on
1120 any measure that would inure to his or her special private gain
1121 or loss; that he or she knows would inure to the special private
1122 gain or loss of any principal by whom he or she is retained or
1123 to the parent organization or subsidiary of a corporate
1124 principal by which he or she is retained, other than an agency
1125 as defined in s. 112.312; or that he or she knows would inure to
1126 the special private gain or loss of a relative or business
1127 associate of the public officer. Before the vote is taken, such
1128 member must ~~shall~~ publicly state to the assembly the nature of
1129 his or her interest in the matter from which he or she is
1130 abstaining from voting and, within 15 days after the vote
1131 occurs, disclose the nature of his or her interest as a public

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record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes. Senior managers and board members are also required to file such disclosures with the Commission on Ethics and the Office of Insurance Regulation. The executive director of the corporation or his or her designee shall notify each existing and newly appointed member of the board of governors and senior managers of their duty to comply with the reporting requirements of part III of chapter 112. At least quarterly, the executive director or his or her designee shall submit to the Commission on Ethics a list of names of the senior managers and members of the board of governors who are subject to the public disclosure requirements under s. 112.3145.

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

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

6. Any senior manager of the corporation who is employed on

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1161 or after January 1, 2007, regardless of the date of hire, who
1162 subsequently retires or terminates employment is prohibited from
1163 having any employment or contractual relationship for 2 years
1164 with an insurer that has entered into a take-out bonus agreement
1165 with the corporation.

1166 (n)~~4~~. It is the intent of the Legislature that the rates
1167 for coverage provided by the corporation be actuarially
1168 determined and not be competitive with rates charged in the
1169 admitted voluntary market such that the corporation functions as
1170 a residual market mechanism that provides insurance only if such
1171 insurance cannot be procured in the voluntary market. To achieve
1172 this goal, for any rate filing made by the corporation on or
1173 after July 1, 2012: Rates for coverage provided by the
1174 corporation must be actuarially sound and subject to s. 627.062,
1175 except as otherwise provided in this paragraph. The corporation
1176 shall file its recommended rates with the office at least
1177 annually. The corporation shall provide any additional
1178 information regarding the rates which the office requires. The
1179 office shall consider the recommendations of the board and issue
1180 a final order establishing the rates for the corporation within
1181 45 days after the recommended rates are filed. The corporation
1182 may not pursue an administrative challenge or judicial review of
1183 the final order of the office.

1184 1. The corporation shall file its recommended rates with
1185 the office at least annually. The office shall consider the
1186 recommended rates and issue a final order establishing the rates
1187 within 45 days after the recommended rates are filed. The
1188 corporation may not pursue an administrative challenge or
1189 judicial review of the office's final order.

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1190 2. In developing its rates, the corporation shall use an
1191 appropriate industry expense equalization factor to ensure that
1192 its rates include standard industry ratemaking expense
1193 provisions. The industry expense equalization factor must
1194 include a catastrophe risk load, a provision for taxes, a market
1195 provision for reinsurance costs, and an industry expense
1196 provision for general expenses, acquisition expenses, and
1197 commissions.

1198 3. The corporation shall implement a rate increase each
1199 year for each residential line of business it writes, which may
1200 not exceed 20 percent by territory and 25 percent for any single
1201 policy, excluding coverage changes and surcharges. This
1202 subparagraph expires January 1, 2016, and does not apply to
1203 rates for sinkhole coverage or costs for the purchase of private
1204 reinsurance, if any.

1205 4.2. In addition to the rates otherwise determined pursuant
1206 to this paragraph, the corporation shall impose and collect an
1207 amount equal to the premium tax provided in s. 624.509 to
1208 augment the financial resources of the corporation.

1209 ~~3. After the public hurricane loss projection model under~~
1210 ~~s. 627.06281 has been found to be accurate and reliable by the~~
1211 ~~Florida Commission on Hurricane Loss Projection Methodology, the~~
1212 ~~model shall serve as the minimum benchmark for determining the~~
1213 ~~windstorm portion of the corporation's rates. This subparagraph~~
1214 ~~does not require or allow the corporation to adopt rates lower~~
1215 ~~than the rates otherwise required or allowed by this paragraph.~~

1216 ~~4. The rate filings for the corporation which were approved~~
1217 ~~by the office and took effect January 1, 2007, are rescinded,~~
1218 ~~except for those rates that were lowered. As soon as possible,~~

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~~the corporation shall begin using the lower rates that were in effect on December 31, 2006, and provide refunds to policyholders who paid higher rates as a result of that rate filing. The rates in effect on December 31, 2006, remain in effect for the 2007 and 2008 calendar years except for any rate change that results in a lower rate. The next rate change that may increase rates shall take effect pursuant to a new rate filing recommended by the corporation and established by the office, subject to this paragraph.~~

~~5. Beginning on July 15, 2009, and annually thereafter, the corporation must make a recommended actuarially sound rate filing for each personal and commercial line of business it writes, to be effective no earlier than January 1, 2010.~~

~~6. Beginning on or after January 1, 2010, and notwithstanding the board's recommended rates and the office's final order regarding the corporation's filed rates under subparagraph 1., the corporation shall annually implement a rate increase which, except for sinkhole coverage, does not exceed 10 percent for any single policy issued by the corporation, excluding coverage changes and surcharges.~~

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

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

~~8. The corporation's implementation of rates as prescribed in subparagraph 6. shall cease for any line of business written by the corporation upon the corporation's implementation of~~

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1248 ~~actuarially sound rates. Thereafter, the corporation shall~~
1249 ~~annually make a recommended actuarially sound rate filing for~~
1250 ~~each commercial and personal line of business the corporation~~
1251 ~~writes.~~

1252 (o) If coverage in an account is deactivated pursuant to
1253 paragraph (p), coverage through the corporation shall be
1254 reactivated by order of the office only under one of the
1255 following circumstances:

1256 1. If the market assistance plan receives a minimum of 100
1257 applications for coverage within a 3-month period, or 200
1258 applications for coverage within a 1-year period or less for
1259 residential coverage, unless the market assistance plan provides
1260 a quotation from admitted carriers at their filed rates for at
1261 least 90 percent of such applicants. A ~~Any~~ market assistance
1262 plan application that is rejected because an individual risk is
1263 so hazardous as to be uninsurable using the criteria specified
1264 in subparagraph (c)7. ~~may (c)8. shall~~ not be included in the
1265 minimum percentage calculation ~~provided herein.~~ If ~~In the event~~
1266 ~~that~~ there is a legal or administrative challenge to a
1267 determination by the office that the conditions of this
1268 subparagraph have been met for eligibility for coverage by ~~in~~
1269 the corporation, an ~~any~~ eligible risk may obtain coverage during
1270 the pendency of such challenge.

1271 2. In response to a state of emergency declared by the
1272 Governor under s. 252.36, the office may activate coverage by
1273 order during ~~for the period of~~ the emergency upon a finding by
1274 the office that the emergency significantly affects the
1275 availability of residential property insurance.

1276 (q)1. The corporation shall certify to the office its needs

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for annual assessments as to a particular calendar year, and for any interim assessments that it deems to be necessary to sustain operations as to a particular year pending the receipt of annual assessments. Upon verification, the office shall approve such certification, and the corporation shall levy such annual or interim assessments. Such assessments must ~~shall~~ be prorated as provided in paragraph (b). The corporation shall take all reasonable and prudent steps necessary to collect the amount of assessment due from each assessable insurer, including, if prudent, filing suit to collect such assessment. If the corporation is unable to collect an assessment from any assessable insurer, the uncollected assessments shall be levied as an additional assessment against the assessable insurers and any assessable insurer required to pay an additional assessment ~~as a result of such failure to pay~~ shall have a cause of action against such nonpaying assessable insurer. Assessments shall be included as an appropriate factor in the making of rates. The failure of a surplus lines agent to collect and remit any regular or emergency assessment levied by the corporation is ~~considered to be~~ a violation of s. 626.936 and subjects the surplus lines agent to the penalties provided in that section.

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

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

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

a. Any program the corporation adopts for the payment of

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1335 bonuses to an insurer for each risk the insurer removes from the
1336 corporation must ~~shall~~ comply with s. 627.3511(2) and may not
1337 exceed the amount referenced in s. 627.3511(2) for each risk
1338 removed. The corporation may consider any prudent and not
1339 unfairly discriminatory approach to reducing corporation
1340 writings, and may adopt a credit against assessment liability or
1341 other liability that provides an incentive for insurers to take
1342 risks out of the corporation and to keep risks out of the
1343 corporation by maintaining or increasing voluntary writings in
1344 counties or areas in which corporation risks are highly
1345 concentrated and a program to provide a formula under which an
1346 insurer voluntarily taking risks out of the corporation by
1347 maintaining or increasing voluntary writings will be relieved
1348 wholly or partially from assessments under sub-subparagraph ~~sub-~~
1349 ~~subparagraphs~~ (b)3.a. ~~and b.~~ However, any "take-out bonus" or
1350 payment to an insurer must be conditioned on the property being
1351 insured for at least 5 years by the insurer, unless canceled or
1352 nonrenewed by the policyholder. If the policy is canceled or
1353 nonrenewed by the policyholder before the end of the 5-year
1354 period, the amount of the take-out bonus must be prorated for
1355 the time period the policy was insured. If ~~When~~ the corporation
1356 enters into a contractual agreement for a take-out plan, the
1357 producing agent of record of the corporation policy is entitled
1358 to retain any unearned commission on such policy, and the
1359 insurer shall either:

1360 (I) Pay to the producing agent of record of the policy, for
1361 the first year, an amount that ~~which~~ is the greater of the
1362 insurer's usual and customary commission for the type of policy
1363 written or a policy fee equal to the usual and customary

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commission of the corporation; or

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

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

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

4. The plan must ~~shall~~ provide for the deferment, in whole or in part, of the assessment of an assessable insurer, other than an emergency assessment collected from policyholders pursuant to sub-subparagraph (b)3.c. ~~(b)3.d.~~, if the office finds that payment of the assessment would endanger or impair the solvency of the insurer. ~~If in the event~~ an assessment against an assessable insurer is deferred in whole or in part, the amount ~~by which such assessment is~~ deferred may be assessed against the other assessable insurers in a manner consistent

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

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

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

7. Notwithstanding any other provision of law, for purposes of a depopulation, take-out, or keep-out program adopted by the corporation, including an initial or renewal offer of coverage made to a policyholder removed from the corporation pursuant to such program, an eligible surplus lines insurer may participate in the program in the same manner and on the same terms as an authorized insurer, except as provided under this subparagraph. To qualify for participation, the surplus lines insurer must first obtain approval from the office for its depopulation, take-out, or keep-out plan and comply with all of the corporation's requirements for such plan applicable to admitted insurers and with all statutory provisions applicable to the removal of policies from the corporation. In considering a surplus lines insurer's request for approval for its plan, the

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office must determine that the surplus lines insurer meets the
following requirements:

a. Maintains surplus of \$50 million on a company or pooled
basis;

b. Maintains an A.M. Best Financial Strength Rating of "A-"
or better;

c. Maintains reserves, surplus, reinsurance, and
reinsurance equivalents sufficient to cover the insurer's 100-
year probable maximum hurricane loss at least twice in a single
hurricane season, and submits such reinsurance to the office to
review for purposes of the take-out;

d. Provides prominent notice to the policyholder before the
assumption of the policy that surplus lines policies are not
provided coverage by the Florida Insurance Guaranty Association,
and an outline of any substantial differences in coverage
between the existing policy and the policy being offered to the
insured; and

e. Provides similar policy coverage.

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

(s)1. There ~~is~~ shall be no liability on the part of, and no
cause of action ~~of any nature~~ shall arise against, any
assessable insurer or its agents or employees, the corporation
or its agents or employees, members of the board of governors or
their respective designees at a board meeting, corporation

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committee members, or the office or its representatives, for any action taken by them in the performance of their duties or responsibilities under this subsection.

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

b. Such immunity does not apply to:

(I)~~a.~~ Any of the foregoing persons or entities for any willful tort;

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

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

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

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

2. The corporation shall manage its claim employees, independent adjusters, and others who handle claims to ensure they carry out the corporation's duty to its policyholders to handle claims carefully, timely, diligently, and in good faith, balanced against the corporation's duty to the state to manage

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its assets responsibly in order to minimize its assessment potential.

(w) Notwithstanding any other provision of law:

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

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

3. Each such pledge or sale of, lien upon, and security interest in, including the priority of such pledge, lien, or security interest, any such assessments, market equalization or other surcharges, or other rights, revenues, or other assets which are collected, or levied and collected, after the commencement of and during the pendency of, or after, any such proceeding continues ~~shall continue~~ unaffected by such proceeding. As used in this subsection, the term "financing documents" means any agreement or agreements, instrument or

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1509 instruments, or other document or documents now existing or
1510 hereafter created evidencing any bonds or other indebtedness of
1511 the corporation or pursuant to which any such bonds or other
1512 indebtedness has been or may be issued and pursuant to which any
1513 rights, revenues, or other assets of the corporation are pledged
1514 or sold to secure the repayment of such bonds or indebtedness,
1515 together with the payment of interest on such bonds or such
1516 indebtedness, or the payment of any other obligation or
1517 financial product, as defined in the plan of operation of the
1518 corporation related to such bonds or indebtedness.

1519 4. Any such pledge or sale of assessments, revenues,
1520 contract rights, or other rights or assets of the corporation
1521 constitutes ~~shall constitute~~ a lien and security interest, or
1522 sale, as the case may be, that is immediately effective and
1523 attaches to such assessments, revenues, or contract rights or
1524 other rights or assets, whether or not imposed or collected at
1525 the time the pledge or sale is made. ~~Any~~ Such pledge or sale is
1526 effective, valid, binding, and enforceable against the
1527 corporation or other entity making such pledge or sale, and
1528 valid and binding against and superior to any competing claims
1529 or obligations owed to any other person or entity, including
1530 policyholders in this state, asserting rights in any such
1531 assessments, revenues, or contract rights or other rights or
1532 assets to the extent set forth in and in accordance with the
1533 terms of the pledge or sale contained in the applicable
1534 financing documents, whether or not any such person or entity
1535 has notice of such pledge or sale and without the need for any
1536 physical delivery, recordation, filing, or other action.

1537 5. If ~~As long as~~ the corporation has any bonds outstanding,

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the corporation may not file a voluntary petition under chapter 9 of the federal Bankruptcy Code or such corresponding chapter or sections as may be in effect, ~~from time to time~~, and a public officer or any organization, entity, or other person may not authorize the corporation to be or become a debtor under chapter 9 of the federal Bankruptcy Code or such corresponding chapter or sections as may be in effect, ~~from time to time~~, during any such period.

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

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

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

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

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1567 written request and demonstration of need; such records held by
1568 the receiving agency remain confidential and exempt as provided
1569 herein.

1570 c. Records obtained or generated by an internal auditor
1571 pursuant to a routine audit, until the audit is completed, or if
1572 the audit is conducted as part of an investigation, until the
1573 investigation is closed or ceases to be active. An investigation
1574 is considered "active" while the investigation is being
1575 conducted with a reasonable, good faith belief that it could
1576 lead to the filing of administrative, civil, or criminal
1577 proceedings.

1578 d. Matters reasonably encompassed in privileged attorney-
1579 client communications.

1580 e. Proprietary information licensed to the corporation
1581 under contract and the contract provides for the confidentiality
1582 of such proprietary information.

1583 f. All information relating to the medical condition or
1584 medical status of a corporation employee which is not relevant
1585 to the employee's capacity to perform his or her duties, except
1586 as otherwise provided in this paragraph. Information that is
1587 exempt shall include, but is not limited to, information
1588 relating to workers' compensation, insurance benefits, and
1589 retirement or disability benefits.

1590 g. Upon an employee's entrance into the employee assistance
1591 program, a program to assist any employee who has a behavioral
1592 or medical disorder, substance abuse problem, or emotional
1593 difficulty which affects the employee's job performance, all
1594 records relative to that participation shall be confidential and
1595 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I

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of the State Constitution, except as otherwise provided in s.
112.0455(11).

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

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

2. If an ~~authorized~~ insurer is considering underwriting a
risk insured by the corporation or has removed a risk from the
corporation, relevant underwriting files and confidential claims
files may be released to the insurer if ~~provided~~ the insurer
agrees in writing, notarized and under oath, to maintain the
confidentiality of such files. If a file is transferred to an
insurer, that file is no longer a public record because it is
not held by an agency subject to the provisions of the public
records law. Underwriting files and confidential claims files
may also be released to staff and the board of governors of the
market assistance plan established pursuant to s. 627.3515, who
must retain the confidentiality of such files, except such files
may be released to authorized insurers that are considering
assuming the risks to which the files apply if, ~~provided~~ the
insurer agrees in writing, notarized and under oath, to maintain
the confidentiality of such files. Finally, the corporation or
the board or staff of the market assistance plan may make the
following information obtained from underwriting files and
confidential claims files available to licensed general lines

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insurance agents: name, address, and telephone number of the residential property owner or insured; location of the risk; rating information; loss history; and policy type. The receiving licensed general lines insurance agent must retain the confidentiality of the information received.

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

4. Portions of meetings of the corporation are exempt from the provisions of s. 286.011 and s. 24(b), Art. I of the State Constitution wherein confidential underwriting files or confidential open claims files are discussed. All portions of corporation meetings which are closed to the public shall be recorded by a court reporter. The court reporter shall record

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the times of commencement and termination of the meeting, all discussion and proceedings, the names of all persons present at any time, and the names of all persons speaking. No portion of any closed meeting shall be off the record. Subject to the provisions hereof and s. 119.07(1)(d)-(f), the court reporter's notes of any closed meeting shall be retained by the corporation for a minimum of 5 years. A copy of the transcript, less any exempt matters, of any closed meeting wherein claims are discussed shall become public as to individual claims after settlement of the claim.

(aa) As a condition of eligibility for coverage by the corporation, an applicant or insured of a property located in a special flood hazard area, as defined by the National Flood Insurance Program, must maintain in effect a separate flood insurance policy having coverage limits for building and contents at least equal to those provided under the corporation's policy, subject to the maximum limits available under the National Flood Insurance Program policy. This requirement does not apply to an insured who is a tenant or a condominium unit owner above the ground floor; a policy issued by the corporation which excludes wind and hail coverage; a risk that is not eligible for flood coverage under the National Flood Insurance Program; or a mobile home that is located more than 2 miles from open water, including the ocean, the gulf, a bay, a river, or the intracoastal waterway. This paragraph applies to new policies issued by the corporation on or after January 1, 2013, and to policies renewed by the corporation on or after January 1, 2014. ~~The corporation shall not require the securing of flood insurance as a condition of coverage if the insured or~~

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~~applicant executes a form approved by the office affirming that flood insurance is not provided by the corporation and that if flood insurance is not secured by the applicant or insured in addition to coverage by the corporation, the risk will not be covered for flood damage. A corporation policyholder electing not to secure flood insurance and executing a form as provided herein making a claim for water damage against the corporation shall have the burden of proving the damage was not caused by flooding. Notwithstanding other provisions of this subsection, the corporation may deny coverage to an applicant or insured who refuses to execute the form described herein.~~

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

Section 3. Paragraphs (a), (b), and (c) of subsection (3), subsection (4), and paragraphs (d), (e), and (f) of subsection (6) of section 627.3511, Florida Statutes, are amended to read:

627.3511 Depopulation of Citizens Property Insurance Corporation.—

(3) EXEMPTION FROM DEFICIT ASSESSMENTS.—

(a) The calculation of an insurer's assessment liability under s. 627.351(6)(b)3.a. ~~or b.~~ shall, for an insurer that in any calendar year removes 50,000 or more risks from the Citizens Property Insurance Corporation, ~~either~~ by issuance of a policy

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upon expiration or cancellation of the corporation policy or by assumption of the corporation's obligations with respect to in-force policies, exclude such removed policies for the succeeding 3 years, as follows:

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

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

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

If the removal of risks is accomplished through assumption of obligations with respect to in-force policies, the corporation shall pay to the assuming insurer all unearned premium for ~~with respect to~~ such policies less any policy acquisition costs agreed to by the corporation and assuming insurer. The term "policy acquisition costs" means the corporation's ~~is defined as~~ costs of issuing ~~issuance of~~ the policy and ~~by the corporation~~ ~~which~~ includes agent commissions, servicing company fees, and premium tax. This paragraph does not apply to an insurer that, at any time within 5 years before removing the risks, had a market share in excess of 0.1 percent of the statewide aggregate gross direct written premium for any line of property insurance, or to an affiliate of such an insurer. This paragraph does not apply unless ~~either~~ at least 40 percent of the risks removed from the corporation are located in Miami-Dade, Broward, and

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1741 Palm Beach Counties, or at least 30 percent of the risks removed
1742 from the corporation are located in such counties and an
1743 additional 50 percent of the risks removed from the corporation
1744 are located in other coastal counties.

1745 (b) An insurer that first wrote personal lines residential
1746 property coverage in this state on or after July 1, 1994, is
1747 exempt from regular deficit assessments imposed pursuant to s.
1748 627.351(6)(b)3.a. ~~and b.~~, but not emergency assessments
1749 collected from policyholders pursuant to s. 627.351(6)(b)3.c.
1750 ~~627.351(6)(b)3.d.~~, of the Citizens Property Insurance
1751 Corporation until the earlier of the following:

1752 1. The end of the calendar year in which it first wrote 0.5
1753 percent or more of the statewide aggregate direct written
1754 premium for any line of residential property coverage; or

1755 2. December 31, 1997, or December 31 of the third year in
1756 which it wrote such coverage in this state, whichever is later.

1757 (c) Other than an insurer that is exempt under paragraph
1758 (b), an insurer that in any calendar year increases its total
1759 structure exposure subject to wind coverage by 25 percent or
1760 more over its exposure for the preceding calendar year is, with
1761 respect to that year, exempt from deficit assessments imposed
1762 pursuant to s. 627.351(6)(b)3.a. ~~and b.~~, but not emergency
1763 assessments collected from policyholders pursuant to s.
1764 627.351(6)(b)3.c. ~~627.351(6)(b)3.d.~~, of the Citizens Property
1765 Insurance Corporation attributable to such increase in exposure.

1766 (4) AGENT BONUS.—~~If when~~ the corporation enters into a
1767 contractual agreement for a take-out plan that provides a bonus
1768 to the insurer, the producing agent of record of the corporation
1769 policy is entitled to retain any unearned commission on such

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policy, and the insurer shall ~~either~~:

(a) Pay to the producing agent ~~of record of the association policy~~, 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 of the corporation policy~~ to continue servicing the policy for at least ~~a period of not less than~~ 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 paragraph (a). The requirement ~~of this subsection~~ that the producing agent of record is entitled to retain the unearned commission on an association policy does not apply to a policy for which coverage has been provided in the association for 30 days or less ~~or for which a cancellation notice has been issued pursuant to s. 627.351(6)(c)10. during the first 30 days of coverage.~~

(6) COMMERCIAL RESIDENTIAL TAKE-OUT PLANS.—

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

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1799 1. In the first year following removal of the policies, 100
1800 percent of the policies are excluded from the calculation ~~to the~~
1801 ~~extent of 100 percent.~~

1802 2. In the second year following removal of the policies, 75
1803 percent of the policies are excluded from the calculation ~~to the~~
1804 ~~extent of 75 percent.~~

1805 3. In the third year following removal of the policies, 50
1806 percent of the policies are excluded from the calculation ~~to the~~
1807 ~~extent of 50 percent.~~

1808 (e) An insurer that first wrote commercial residential
1809 property coverage in this state on or after June 1, 1996, is
1810 exempt from regular assessments under s. 627.351(6)(b)3.a. ~~and~~
1811 ~~b.~~, but not emergency assessments collected from policyholders
1812 pursuant to s. 627.351(6)(b)3.c. ~~627.351(6)(b)3.d.~~, with respect
1813 to commercial residential policies until the earlier of:

1814 1. The end of the calendar year in which such insurer first
1815 wrote 0.5 percent or more of the statewide aggregate direct
1816 written premium for commercial residential property coverage; or

1817 2. December 31 of the third year in which such insurer
1818 wrote commercial residential property coverage in this state.

1819 (f) An insurer that is not otherwise exempt from regular
1820 assessments under s. 627.351(6)(b)3.a. ~~and b.~~ with respect to
1821 commercial residential policies is, for any calendar year in
1822 which such insurer increased its total commercial residential
1823 hurricane exposure by 25 percent or more over its exposure for
1824 the preceding calendar year, exempt from regular assessments
1825 under s. 627.351(6)(b)3.a. ~~and b.~~, but not emergency assessments
1826 collected from policyholders pursuant to s. 627.351(6)(b)3.c.
1827 ~~627.351(6)(b)3.d.~~, attributable to such increased exposure.

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