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1
 2 An act relating to Citizens Property Insurance
 3 Corporation; amending s. 627.351, F.S.; revising a
 4 requirement for certain flood insurance; revising
 5 circumstances under which certain insurers'
 6 associations must levy market equalization surcharges
 7 on policyholders; deleting obsolete language;
 8 providing that certain accounts for Citizens Property
 9 Insurance Corporation revenues, assets, liabilities,
 10 losses, and expenses are now maintained as the
 11 Citizens account; revising the requirements for
 12 certain coverages by the corporation; requiring the
 13 inclusion of quota share primary insurance in certain
 14 policies; deleting provisions relating to legislative
 15 goals; conforming provisions to changes made by the
 16 act; revising provisions relating to deficits in
 17 certain accounts; revising the definition of the term
 18 "assessments"; deleting provisions relating to
 19 surcharges and regular assessments upon determination
 20 of projected deficits; deleting provisions relating to
 21 funds available to the corporation as sources of
 22 revenue and bonds; deleting definitions; deleting
 23 provisions relating to the duties of the Florida
 24 Surplus Lines Service Office; deleting provisions
 25 relating to disposition of excess amounts of

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26 assessments and surcharges; defining the terms
 27 "approved surplus lines insurer" and "primary
 28 residence"; providing applicability of certain
 29 provisions relating to personal lines residential
 30 risks coverage by the corporation; providing that
 31 certain personal lines residential risks are not
 32 eligible for any policy issued by the corporation;
 33 providing an exception; providing that certain
 34 personal lines residential risks are not eligible for
 35 coverage with the corporation under certain
 36 circumstances; providing an exception; providing that
 37 certain risks are eligible for certain standard
 38 policies; providing that certain risks are eligible
 39 for certain basic policies; requiring that the
 40 determination of the type of policy be provided on the
 41 basis of certain standards and practices; providing
 42 that certain policyholders do not remain eligible for
 43 coverage from the corporation; requiring the insurer
 44 to pay the producing agent of record a certain amount
 45 or make certain offers under certain circumstances;
 46 providing that the producing agent of record is
 47 entitled to retain certain commission on the policy;
 48 requiring the insurer to pay the producing agent of
 49 record a certain amount or make certain offers under
 50 certain circumstances; revising the corporation's plan

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51 of operation; revising the required statements from
52 applicants for coverage; revising the duties of the
53 executive director of the corporation; authorizing the
54 executive director to assign and appoint designees;
55 deleting an applicability provision relating to bond
56 requirements; deleting provisions relating to certain
57 insurer assessment deferments; deleting provisions
58 relating to the intangibles of and coverage by the
59 Florida Windstorm Underwriting Association and the
60 corporation coastal account; authorizing the
61 corporation and certain persons to make specified
62 information obtained from underwriting files and
63 confidential claims files available to licensed
64 surplus lines agents; prohibiting such agents from
65 using such information for specified purposes;
66 providing applicability of provisions relating to
67 take-out offers that are part of applications to
68 participate in depopulation; authorizing the
69 corporation to share its claims data with a specified
70 entity; authorizing the corporation to take certain
71 actions relating to trademarks, copyrights, or
72 patents; amending s. 627.3511, F.S.; conforming
73 provisions to changes made by the act; conforming
74 cross-references; amending s. 627.3518, F.S.; revising
75 eligibility requirements for policyholders at renewal

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76 and for applicants for new coverage; defining the term
 77 "primary residence"; providing effective dates.
 78

79 Be It Enacted by the Legislature of the State of Florida:
 80

81 Section 1. Effective upon becoming a law, paragraph (aa)
 82 of subsection (6) of section 627.351, Florida Statutes, is
 83 amended to read:

84 627.351 Insurance risk apportionment plans.—

85 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

86 (aa) Except as otherwise provided in this paragraph, the
 87 corporation shall require the securing and maintaining of flood
 88 insurance as a condition of coverage of a personal lines
 89 residential risk. The insured or applicant must execute a form
 90 approved by the office affirming that flood insurance is not
 91 provided by the corporation and that if flood insurance is not
 92 secured by the applicant or insured from an insurer other than
 93 the corporation and in addition to coverage by the corporation,
 94 the risk will not be eligible for coverage by the corporation.
 95 The corporation may deny coverage of a personal lines
 96 residential risk to an applicant or insured who refuses to
 97 secure and maintain flood insurance. The requirement to purchase
 98 flood insurance shall be implemented as follows:

99 1. Except as provided in subparagraphs 2. and 3., all
 100 personal lines residential policyholders must have flood

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101 coverage in place for policies effective on or after:
 102 a. January 1, 2024, for a structure that has a dwelling
 103 replacement cost of \$600,000 or more.
 104 b. January 1, 2025, for a structure that has a dwelling
 105 replacement cost of \$500,000 or more.
 106 c. January 1, 2026, for a structure that has a dwelling
 107 replacement cost of \$400,000 or more.
 108 d. January 1, 2027, for all other personal lines
 109 residential property insured by the corporation.
 110 2. All personal lines residential policyholders whose
 111 property insured by the corporation is located within the
 112 special flood hazard area defined by the Federal Emergency
 113 Management Agency must have flood coverage in place:
 114 a. At the time of initial policy issuance for all new
 115 personal lines residential policies issued by the corporation on
 116 or after April 1, 2023.
 117 b. By the time of the policy renewal for all personal
 118 lines residential policies renewing on or after July 1, 2023.
 119 3. Policyholders are not required to purchase flood
 120 insurance as a condition for maintaining the following policies
 121 issued by the corporation:
 122 a. Policies that do not provide coverage for the peril of
 123 wind.
 124 b. Policies that provide coverage under a condominium unit
 125 owners form.

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126
 127 The flood insurance required under this paragraph must meet, at
 128 a minimum, the dwelling coverage available from the National
 129 Flood Insurance Program or the requirements of ~~subparagraphs~~ s.
 130 627.715(1)(a)1., 2., and 3.

131 Section 2. Present subsection (7) of section 627.351,
 132 Florida Statutes, is redesignated as subsection (8), a new
 133 subsection (7) is added to that section, paragraph (nn) is added
 134 to subsection (6) of that section, and paragraph (b) of
 135 subsection (2) and paragraphs (a), (b), (c), (e), (o), (p), (q),
 136 (v), (w), (x), (z), and (ii) of subsection (6) of that section
 137 are amended, to read:

138 627.351 Insurance risk apportionment plans.—

139 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

140 (b) The department shall require all insurers holding a
 141 certificate of authority to transact property insurance on a
 142 direct basis in this state, other than joint underwriting
 143 associations and other entities formed pursuant to this section,
 144 to provide windstorm coverage to applicants from areas
 145 determined to be eligible pursuant to paragraph (c) who in good
 146 faith are entitled to, but are unable to procure, such coverage
 147 through ordinary means; or it shall adopt a reasonable plan or
 148 plans for the equitable apportionment or sharing among such
 149 insurers of windstorm coverage, which may include formation of
 150 an association for this purpose. As used in this subsection, the

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151 term "property insurance" means insurance on real or personal
 152 property, as defined in s. 624.604, including insurance for
 153 fire, industrial fire, allied lines, farmowners multiperil,
 154 homeowners multiperil, commercial multiperil, and mobile homes,
 155 and including liability coverages on all such insurance, but
 156 excluding inland marine as defined in s. 624.607(3) and
 157 excluding vehicle insurance as defined in s. 624.605(1)(a) other
 158 than insurance on mobile homes used as permanent dwellings. The
 159 department shall adopt rules that provide a formula for the
 160 recovery and repayment of any deferred assessments.

161 1. For the purpose of this section, properties eligible
 162 for such windstorm coverage are defined as dwellings, buildings,
 163 and other structures, including mobile homes which are used as
 164 dwellings and which are tied down in compliance with mobile home
 165 tie-down requirements prescribed by the Department of Highway
 166 Safety and Motor Vehicles pursuant to s. 320.8325, and the
 167 contents of all such properties. An applicant or policyholder is
 168 eligible for coverage only if an offer of coverage cannot be
 169 obtained by or for the applicant or policyholder from an
 170 admitted insurer at approved rates.

171 2.a.(I) All insurers required to be members of such
 172 association shall participate in its writings, expenses, and
 173 losses. Surplus of the association shall be retained for the
 174 payment of claims and shall not be distributed to the member
 175 insurers. Such participation by member insurers shall be in the

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176 proportion that the net direct premiums of each member insurer
177 written for property insurance in this state during the
178 preceding calendar year bear to the aggregate net direct
179 premiums for property insurance of all member insurers, as
180 reduced by any credits for voluntary writings, in this state
181 during the preceding calendar year. For the purposes of this
182 subsection, the term "net direct premiums" means direct written
183 premiums for property insurance, reduced by premium for
184 liability coverage and for the following if included in allied
185 lines: rain and hail on growing crops; livestock; association
186 direct premiums booked; National Flood Insurance Program direct
187 premiums; and similar deductions specifically authorized by the
188 plan of operation and approved by the department. A member's
189 participation shall begin on the first day of the calendar year
190 following the year in which it is issued a certificate of
191 authority to transact property insurance in the state and shall
192 terminate 1 year after the end of the calendar year during which
193 it no longer holds a certificate of authority to transact
194 property insurance in the state. The commissioner, after review
195 of annual statements, other reports, and any other statistics
196 that the commissioner deems necessary, shall certify to the
197 association the aggregate direct premiums written for property
198 insurance in this state by all member insurers.

199 (II) Effective July 1, 2002, the association shall operate
200 subject to the supervision and approval of a board of governors

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201 | who are the same individuals that have been appointed by the
 202 | Treasurer to serve on the board of governors of the Citizens
 203 | Property Insurance Corporation.

204 | (III) The plan of operation shall provide a formula
 205 | whereby a company voluntarily providing windstorm coverage in
 206 | affected areas will be relieved wholly or partially from
 207 | apportionment of a regular assessment pursuant to sub-sub-
 208 | subparagraph d.(I) or sub-sub-subparagraph d.(II).

209 | (IV) A company which is a member of a group of companies
 210 | under common management may elect to have its credits applied on
 211 | a group basis, and any company or group may elect to have its
 212 | credits applied to any other company or group.

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

216 | (VI) The plan of operation may also provide for the award
 217 | of credits, for a period not to exceed 3 years, from a regular
 218 | assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-
 219 | subparagraph d.(II) as an incentive for taking policies out of
 220 | the Residential Property and Casualty Joint Underwriting
 221 | Association. In order to qualify for the exemption under this
 222 | sub-sub-subparagraph, the take-out plan must provide that at
 223 | least 40 percent of the policies removed from the Residential
 224 | Property and Casualty Joint Underwriting Association cover risks
 225 | located in Miami-Dade, Broward, and Palm Beach Counties or at

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226 | least 30 percent of the policies so removed cover risks located
 227 | in Miami-Dade, Broward, and Palm Beach Counties and an
 228 | additional 50 percent of the policies so removed cover risks
 229 | located in other coastal counties, and must also provide that no
 230 | more than 15 percent of the policies so removed may exclude
 231 | windstorm coverage. With the approval of the department, the
 232 | association may waive these geographic criteria for a take-out
 233 | plan that removes at least the lesser of 100,000 Residential
 234 | Property and Casualty Joint Underwriting Association policies or
 235 | 15 percent of the total number of Residential Property and
 236 | Casualty Joint Underwriting Association policies, provided the
 237 | governing board of the Residential Property and Casualty Joint
 238 | Underwriting Association certifies that the take-out plan will
 239 | materially reduce the Residential Property and Casualty Joint
 240 | Underwriting Association's 100-year probable maximum loss from
 241 | hurricanes. With the approval of the department, the board may
 242 | extend such credits for an additional year if the insurer
 243 | guarantees an additional year of renewability for all policies
 244 | removed from the Residential Property and Casualty Joint
 245 | Underwriting Association, or for 2 additional years if the
 246 | insurer guarantees 2 additional years of renewability for all
 247 | policies removed from the Residential Property and Casualty
 248 | Joint Underwriting Association.

249 | b. Assessments to pay deficits in the association under
 250 | this subparagraph shall be included as an appropriate factor in

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251 | the making of rates as provided in s. 627.3512.

252 | c. The Legislature finds that the potential for unlimited
 253 | deficit assessments under this subparagraph may induce insurers
 254 | to attempt to reduce their writings in the voluntary market, and
 255 | that such actions would worsen the availability problems that
 256 | the association was created to remedy. It is the intent of the
 257 | Legislature that insurers remain fully responsible for paying
 258 | regular assessments and collecting emergency assessments for any
 259 | deficits of the association; however, it is also the intent of
 260 | the Legislature to provide a means by which assessment
 261 | liabilities may be amortized over a period of years.

262 | d.(I) When the deficit incurred in a particular calendar
 263 | year is 10 percent or less of the aggregate statewide direct
 264 | written premium for property insurance for the prior calendar
 265 | year for all member insurers, the association shall levy an
 266 | assessment on member insurers in an amount equal to the deficit.

267 | (II) When the deficit incurred in a particular calendar
 268 | year exceeds 10 percent of the aggregate statewide direct
 269 | written premium for property insurance for the prior calendar
 270 | year for all member insurers, the association shall levy an
 271 | assessment on member insurers in an amount equal to the greater
 272 | of 10 percent of the deficit or 10 percent of the aggregate
 273 | statewide direct written premium for property insurance for the
 274 | prior calendar year for member insurers. Any remaining deficit
 275 | shall be recovered through emergency assessments under sub-sub-

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276 subparagraph (III).

277 (III) Upon a determination by the board of directors that
278 a deficit exceeds the amount that will be recovered through
279 regular assessments on member insurers, pursuant to sub-sub-
280 subparagraph (I) or sub-sub-subparagraph (II), the board shall
281 levy, after verification by the department, emergency
282 assessments to be collected by member insurers and by
283 underwriting associations created pursuant to this section which
284 write property insurance, upon issuance or renewal of property
285 insurance policies other than National Flood Insurance policies
286 in the year or years following levy of the regular assessments.
287 The amount of the emergency assessment collected in a particular
288 year shall be a uniform percentage of that year's direct written
289 premium for property insurance for all member insurers and
290 underwriting associations, excluding National Flood Insurance
291 policy premiums, as annually determined by the board and
292 verified by the department. The department shall verify the
293 arithmetic calculations involved in the board's determination
294 within 30 days after receipt of the information on which the
295 determination was based. Notwithstanding any other provision of
296 law, each member insurer and each underwriting association
297 created pursuant to this section shall collect emergency
298 assessments from its policyholders without such obligation being
299 affected by any credit, limitation, exemption, or deferment. The
300 emergency assessments so collected shall be transferred directly

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301 to the association on a periodic basis as determined by the
 302 association. The aggregate amount of emergency assessments
 303 levied under this sub-sub-subparagraph in any calendar year may
 304 not exceed the greater of 10 percent of the amount needed to
 305 cover the original deficit, plus interest, fees, commissions,
 306 required reserves, and other costs associated with financing of
 307 the original deficit, or 10 percent of the aggregate statewide
 308 direct written premium for property insurance written by member
 309 insurers and underwriting associations for the prior year, plus
 310 interest, fees, commissions, required reserves, and other costs
 311 associated with financing the original deficit. The board may
 312 pledge the proceeds of the emergency assessments under this sub-
 313 sub-subparagraph as the source of revenue for bonds, to retire
 314 any other debt incurred as a result of the deficit or events
 315 giving rise to the deficit, or in any other way that the board
 316 determines will efficiently recover the deficit. The emergency
 317 assessments under this sub-sub-subparagraph shall continue as
 318 long as any bonds issued or other indebtedness incurred with
 319 respect to a deficit for which the assessment was imposed remain
 320 outstanding, unless adequate provision has been made for the
 321 payment of such bonds or other indebtedness pursuant to the
 322 document governing such bonds or other indebtedness. Emergency
 323 assessments collected under this sub-sub-subparagraph are not
 324 part of an insurer's rates, are not premium, and are not subject
 325 to premium tax, fees, or commissions; however, failure to pay

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326 the emergency assessment shall be treated as failure to pay
 327 premium.

328 (IV) Each member insurer's share of the total regular
 329 assessments under sub-sub-subparagraph (I) or sub-sub-
 330 subparagraph (II) shall be in the proportion that the insurer's
 331 net direct premium for property insurance in this state, for the
 332 year preceding the assessment bears to the aggregate statewide
 333 net direct premium for property insurance of all member
 334 insurers, as reduced by any credits for voluntary writings for
 335 that year.

336 (V) If regular deficit assessments are made under sub-sub-
 337 subparagraph (I) or sub-sub-subparagraph (II), ~~or by the~~
 338 ~~Residential Property and Casualty Joint Underwriting Association~~
 339 ~~under sub-subparagraph (6)(b)3.a.~~, the association shall levy
 340 upon the association's policyholders, as part of its next rate
 341 filing, or by a separate rate filing solely for this purpose, a
 342 market equalization surcharge in a percentage equal to the total
 343 amount of such regular assessments divided by the aggregate
 344 statewide direct written premium for property insurance for
 345 member insurers for the prior calendar year. Market equalization
 346 surcharges under this sub-sub-subparagraph are not considered
 347 premium and are not subject to commissions, fees, or premium
 348 taxes; however, failure to pay a market equalization surcharge
 349 shall be treated as failure to pay premium.

350 e. The governing body of any unit of local government, any

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351 residents of which are insured under the plan, may issue bonds
 352 as defined in s. 125.013 or s. 166.101 to fund an assistance
 353 program, in conjunction with the association, for the purpose of
 354 defraying deficits of the association. In order to avoid
 355 needless and indiscriminate proliferation, duplication, and
 356 fragmentation of such assistance programs, any unit of local
 357 government, any residents of which are insured by the
 358 association, may provide for the payment of losses, regardless
 359 of whether or not the losses occurred within or outside of the
 360 territorial jurisdiction of the local government. Revenue bonds
 361 may not be issued until validated pursuant to chapter 75, unless
 362 a state of emergency is declared by executive order or
 363 proclamation of the Governor pursuant to s. 252.36 making such
 364 findings as are necessary to determine that it is in the best
 365 interests of, and necessary for, the protection of the public
 366 health, safety, and general welfare of residents of this state
 367 and the protection and preservation of the economic stability of
 368 insurers operating in this state, and declaring it an essential
 369 public purpose to permit certain municipalities or counties to
 370 issue bonds as will provide relief to claimants and
 371 policyholders of the association and insurers responsible for
 372 apportionment of plan losses. Any such unit of local government
 373 may enter into such contracts with the association and with any
 374 other entity created pursuant to this subsection as are
 375 necessary to carry out this paragraph. Any bonds issued under

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376 | this sub-subparagraph shall be payable from and secured by
377 | moneys received by the association from assessments under this
378 | subparagraph, and assigned and pledged to or on behalf of the
379 | unit of local government for the benefit of the holders of such
380 | bonds. The funds, credit, property, and taxing power of the
381 | state or of the unit of local government shall not be pledged
382 | for the payment of such bonds. If any of the bonds remain unsold
383 | 60 days after issuance, the department shall require all
384 | insurers subject to assessment to purchase the bonds, which
385 | shall be treated as admitted assets; each insurer shall be
386 | required to purchase that percentage of the unsold portion of
387 | the bond issue that equals the insurer's relative share of
388 | assessment liability under this subsection. An insurer shall not
389 | be required to purchase the bonds to the extent that the
390 | department determines that the purchase would endanger or impair
391 | the solvency of the insurer. The authority granted by this sub-
392 | subparagraph is additional to any bonding authority granted by
393 | subparagraph 6.

394 | 3. The plan shall also provide that any member with a
395 | surplus as to policyholders of \$25 million or less writing 25
396 | percent or more of its total countrywide property insurance
397 | premiums in this state may petition the department, within the
398 | first 90 days of each calendar year, to qualify as a limited
399 | apportionment company. The apportionment of such a member
400 | company in any calendar year for which it is qualified shall not

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401 exceed its gross participation, which shall not be affected by
 402 the formula for voluntary writings. In no event shall a limited
 403 apportionment company be required to participate in any
 404 apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I)
 405 or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds
 406 \$50 million after payment of available plan funds in any
 407 calendar year. However, a limited apportionment company shall
 408 collect from its policyholders any emergency assessment imposed
 409 under sub-sub-subparagraph 2.d.(III). The plan shall provide
 410 that, if the department determines that any regular assessment
 411 will result in an impairment of the surplus of a limited
 412 apportionment company, the department may direct that all or
 413 part of such assessment be deferred. However, there shall be no
 414 limitation or deferment of an emergency assessment to be
 415 collected from policyholders under sub-sub-subparagraph
 416 2.d.(III).

417 4. The plan shall provide for the deferment, in whole or
 418 in part, of a regular assessment of a member insurer under sub-
 419 sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but
 420 not for an emergency assessment collected from policyholders
 421 under sub-sub-subparagraph 2.d.(III), if, in the opinion of the
 422 commissioner, payment of such regular assessment would endanger
 423 or impair the solvency of the member insurer. In the event a
 424 regular assessment against a member insurer is deferred in whole
 425 or in part, the amount by which such assessment is deferred may

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426 | be assessed against the other member insurers in a manner
 427 | consistent with the basis for assessments set forth in sub-sub-
 428 | subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

429 | 5.a. The plan of operation may include deductibles and
 430 | rules for classification of risks and rate modifications
 431 | consistent with the objective of providing and maintaining funds
 432 | sufficient to pay catastrophe losses.

433 | b. It is the intent of the Legislature that the rates for
 434 | coverage provided by the association be actuarially sound and
 435 | not competitive with approved rates charged in the admitted
 436 | voluntary market such that the association functions as a
 437 | residual market mechanism to provide insurance only when the
 438 | insurance cannot be procured in the voluntary market. The plan
 439 | of operation shall provide a mechanism to assure that, beginning
 440 | no later than January 1, 1999, the rates charged by the
 441 | association for each line of business are reflective of approved
 442 | rates in the voluntary market for hurricane coverage for each
 443 | line of business in the various areas eligible for association
 444 | coverage.

445 | c. The association shall provide for windstorm coverage on
 446 | residential properties in limits up to \$10 million for
 447 | commercial lines residential risks and up to \$1 million for
 448 | personal lines residential risks. If coverage with the
 449 | association is sought for a residential risk valued in excess of
 450 | these limits, coverage shall be available to the risk up to the

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451 replacement cost or actual cash value of the property, at the
 452 option of the insured, if coverage for the risk cannot be
 453 located in the authorized market. The association must accept a
 454 commercial lines residential risk with limits above \$10 million
 455 or a personal lines residential risk with limits above \$1
 456 million if coverage is not available in the authorized market.
 457 The association may write coverage above the limits specified in
 458 this subparagraph with or without facultative or other
 459 reinsurance coverage, as the association determines appropriate.

460 d. The plan of operation must provide objective criteria
 461 and procedures, approved by the department, to be uniformly
 462 applied for all applicants in determining whether an individual
 463 risk is so hazardous as to be uninsurable. In making this
 464 determination and in establishing the criteria and procedures,
 465 the following shall be considered:

466 (I) Whether the likelihood of a loss for the individual
 467 risk is substantially higher than for other risks of the same
 468 class; and

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

472
 473 The acceptance or rejection of a risk by the association
 474 pursuant to such criteria and procedures must be construed as
 475 the private placement of insurance, and the provisions of

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476 chapter 120 do not apply.

477 e. If the risk accepts an offer of coverage through the
 478 market assistance program or through a mechanism established by
 479 the association, either before the policy is issued by the
 480 association or during the first 30 days of coverage by the
 481 association, and the producing agent who submitted the
 482 application to the association is not currently appointed by the
 483 insurer, the insurer shall:

484 (I) Pay to the producing agent of record of the policy,
 485 for the first year, an amount that is the greater of the
 486 insurer's usual and customary commission for the type of policy
 487 written or a fee equal to the usual and customary commission of
 488 the association; or

489 (II) Offer to allow the producing agent of record of the
 490 policy to continue servicing the policy for a period of not less
 491 than 1 year and offer to pay the agent the greater of the
 492 insurer's or the association's usual and customary commission
 493 for the type of policy written.

494
 495 If the producing agent is unwilling or unable to accept
 496 appointment, the new insurer shall pay the agent in accordance
 497 with sub-sub-subparagraph (I). Subject to the provisions of s.
 498 627.3517, the policies issued by the association must provide
 499 that if the association obtains an offer from an authorized
 500 insurer to cover the risk at its approved rates under either a

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501 standard policy including wind coverage or, if consistent with
502 the insurer's underwriting rules as filed with the department, a
503 basic policy including wind coverage, the risk is no longer
504 eligible for coverage through the association. Upon termination
505 of eligibility, the association shall provide written notice to
506 the policyholder and agent of record stating that the
507 association policy must be canceled as of 60 days after the date
508 of the notice because of the offer of coverage from an
509 authorized insurer. Other provisions of the insurance code
510 relating to cancellation and notice of cancellation do not apply
511 to actions under this sub-subparagraph.

512 f. When the association enters into a contractual
513 agreement for a take-out plan, the producing agent of record of
514 the association policy is entitled to retain any unearned
515 commission on the policy, and the insurer shall:

516 (I) Pay to the producing agent of record of the
517 association policy, for the first year, an amount that is the
518 greater of the insurer's usual and customary commission for the
519 type of policy written or a fee equal to the usual and customary
520 commission of the association; or

521 (II) Offer to allow the producing agent of record of the
522 association policy to continue servicing the policy for a period
523 of not less than 1 year and offer to pay the agent the greater
524 of the insurer's or the association's usual and customary
525 commission for the type of policy written.

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526
527 If the producing agent is unwilling or unable to accept
528 appointment, the new insurer shall pay the agent in accordance
529 with sub-sub-subparagraph (I).

530 6.a. The plan of operation may authorize the formation of
531 a private nonprofit corporation, a private nonprofit
532 unincorporated association, a partnership, a trust, a limited
533 liability company, or a nonprofit mutual company which may be
534 empowered, among other things, to borrow money by issuing bonds
535 or by incurring other indebtedness and to accumulate reserves or
536 funds to be used for the payment of insured catastrophe losses.
537 The plan may authorize all actions necessary to facilitate the
538 issuance of bonds, including the pledging of assessments or
539 other revenues.

540 b. Any entity created under this subsection, or any entity
541 formed for the purposes of this subsection, may sue and be sued,
542 may borrow money; issue bonds, notes, or debt instruments;
543 pledge or sell assessments, market equalization surcharges and
544 other surcharges, rights, premiums, contractual rights,
545 projected recoveries from the Florida Hurricane Catastrophe
546 Fund, other reinsurance recoverables, and other assets as
547 security for such bonds, notes, or debt instruments; enter into
548 any contracts or agreements necessary or proper to accomplish
549 such borrowings; and take other actions necessary to carry out
550 the purposes of this subsection. The association may issue bonds

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551 or incur other indebtedness, or have bonds issued on its behalf
552 by a unit of local government pursuant to subparagraph (6)(q)2.,
553 in the absence of a hurricane or other weather-related event,
554 upon a determination by the association subject to approval by
555 the department that such action would enable it to efficiently
556 meet the financial obligations of the association and that such
557 financings are reasonably necessary to effectuate the
558 requirements of this subsection. Any such entity may accumulate
559 reserves and retain surpluses as of the end of any association
560 year to provide for the payment of losses incurred by the
561 association during that year or any future year. The association
562 shall incorporate and continue the plan of operation and
563 articles of agreement in effect on the effective date of chapter
564 76-96, Laws of Florida, to the extent that it is not
565 inconsistent with chapter 76-96, and as subsequently modified
566 consistent with chapter 76-96. The board of directors and
567 officers currently serving shall continue to serve until their
568 successors are duly qualified as provided under the plan. The
569 assets and obligations of the plan in effect immediately prior
570 to the effective date of chapter 76-96 shall be construed to be
571 the assets and obligations of the successor plan created herein.

572 c. In recognition of s. 10, Art. I of the State
573 Constitution, prohibiting the impairment of obligations of
574 contracts, it is the intent of the Legislature that no action be
575 taken whose purpose is to impair any bond indenture or financing

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576 agreement or any revenue source committed by contract to such
 577 bond or other indebtedness issued or incurred by the association
 578 or any other entity created under this subsection.

579 7. On such coverage, an agent's remuneration shall be that
 580 amount of money payable to the agent by the terms of his or her
 581 contract with the company with which the business is placed.
 582 However, no commission will be paid on that portion of the
 583 premium which is in excess of the standard premium of that
 584 company.

585 8. Subject to approval by the department, the association
 586 may establish different eligibility requirements and operational
 587 procedures for any line or type of coverage for any specified
 588 eligible area or portion of an eligible area if the board
 589 determines that such changes to the eligibility requirements and
 590 operational procedures are justified due to the voluntary market
 591 being sufficiently stable and competitive in such area or for
 592 such line or type of coverage and that consumers who, in good
 593 faith, are unable to obtain insurance through the voluntary
 594 market through ordinary methods would continue to have access to
 595 coverage from the association. When coverage is sought in
 596 connection with a real property transfer, such requirements and
 597 procedures shall not provide for an effective date of coverage
 598 later than the date of the closing of the transfer as
 599 established by the transferor, the transferee, and, if
 600 applicable, the lender.

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601 9. Notwithstanding any other provision of law:
 602 a. The pledge or sale of, the lien upon, and the security
 603 interest in any rights, revenues, or other assets of the
 604 association created or purported to be created pursuant to any
 605 financing documents to secure any bonds or other indebtedness of
 606 the association shall be and remain valid and enforceable,
 607 notwithstanding the commencement of and during the continuation
 608 of, and after, any rehabilitation, insolvency, liquidation,
 609 bankruptcy, receivership, conservatorship, reorganization, or
 610 similar proceeding against the association under the laws of
 611 this state or any other applicable laws.
 612 b. No such proceeding shall relieve the association of its
 613 obligation, or otherwise affect its ability to perform its
 614 obligation, to continue to collect, or levy and collect,
 615 assessments, market equalization or other surcharges, projected
 616 recoveries from the Florida Hurricane Catastrophe Fund,
 617 reinsurance recoverables, or any other rights, revenues, or
 618 other assets of the association pledged.
 619 c. Each such pledge or sale of, lien upon, and security
 620 interest in, including the priority of such pledge, lien, or
 621 security interest, any such assessments, emergency assessments,
 622 market equalization or renewal surcharges, projected recoveries
 623 from the Florida Hurricane Catastrophe Fund, reinsurance
 624 recoverables, or other rights, revenues, or other assets which
 625 are collected, or levied and collected, after the commencement

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626 of and during the pendency of or after any such proceeding shall
 627 continue unaffected by such proceeding.

628 d. As used in this subsection, the term "financing
 629 documents" means any agreement, instrument, or other document
 630 now existing or hereafter created evidencing any bonds or other
 631 indebtedness of the association or pursuant to which any such
 632 bonds or other indebtedness has been or may be issued and
 633 pursuant to which any rights, revenues, or other assets of the
 634 association are pledged or sold to secure the repayment of such
 635 bonds or indebtedness, together with the payment of interest on
 636 such bonds or such indebtedness, or the payment of any other
 637 obligation of the association related to such bonds or
 638 indebtedness.

639 e. Any such pledge or sale of assessments, revenues,
 640 contract rights or other rights or assets of the association
 641 shall constitute a lien and security interest, or sale, as the
 642 case may be, that is immediately effective and attaches to such
 643 assessments, revenues, contract, or other rights or assets,
 644 whether or not imposed or collected at the time the pledge or
 645 sale is made. Any such pledge or sale is effective, valid,
 646 binding, and enforceable against the association or other entity
 647 making such pledge or sale, and valid and binding against and
 648 superior to any competing claims or obligations owed to any
 649 other person or entity, including policyholders in this state,
 650 asserting rights in any such assessments, revenues, contract, or

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651 other rights or assets to the extent set forth in and in
652 accordance with the terms of the pledge or sale contained in the
653 applicable financing documents, whether or not any such person
654 or entity has notice of such pledge or sale and without the need
655 for any physical delivery, recordation, filing, or other action.

656 f. There shall be no liability on the part of, and no
657 cause of action of any nature shall arise against, any member
658 insurer or its agents or employees, agents or employees of the
659 association, members of the board of directors of the
660 association, or the department or its representatives, for any
661 action taken by them in the performance of their duties or
662 responsibilities under this subsection. Such immunity does not
663 apply to actions for breach of any contract or agreement
664 pertaining to insurance, or any willful tort.

665 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

669 1. The Legislature finds that private insurers are
670 unwilling or unable to provide affordable property insurance
671 coverage in this state to the extent sought and needed. The
672 absence of affordable property insurance threatens the public
673 health, safety, and welfare and likewise threatens the economic
674 health of the state. The state therefore has a compelling public
675 interest and a public purpose to assist in assuring that

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676 | property in the state is insured and that it is insured at
677 | affordable rates so as to facilitate the remediation,
678 | reconstruction, and replacement of damaged or destroyed property
679 | in order to reduce or avoid the negative effects otherwise
680 | resulting to the public health, safety, and welfare, to the
681 | economy of the state, and to the revenues of the state and local
682 | governments which are needed to provide for the public welfare.
683 | It is necessary, therefore, to provide affordable property
684 | insurance to applicants who are in good faith entitled to
685 | procure insurance through the voluntary market but are unable to
686 | do so. The Legislature intends, therefore, that affordable
687 | property insurance be provided and that it continue to be
688 | provided, as long as necessary, through Citizens Property
689 | Insurance Corporation, a government entity that is an integral
690 | part of the state, and that is not a private insurance company.
691 | To that end, the corporation shall strive to increase the
692 | availability of affordable property insurance in this state,
693 | while achieving efficiencies and economies, and while providing
694 | service to policyholders, applicants, and agents which is no
695 | less than the quality generally provided in the voluntary
696 | market, for the achievement of the foregoing public purposes.
697 | Because it is essential for this government entity to have the
698 | maximum financial resources to pay claims following a
699 | catastrophic hurricane, it is the intent of the Legislature that
700 | the corporation continue to be an integral part of the state and

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701 that the income of the corporation be exempt from federal income
702 taxation and that interest on the debt obligations issued by the
703 corporation be exempt from federal income taxation.

704 2. The Residential Property and Casualty Joint
705 Underwriting Association originally created by this statute
706 shall be known as the Citizens Property Insurance Corporation.
707 The corporation shall provide insurance for residential and
708 commercial property, for applicants who are entitled, but, in
709 good faith, are unable to procure insurance through the
710 voluntary market. The corporation shall operate pursuant to a
711 plan of operation approved by order of the Financial Services
712 Commission. The plan is subject to continuous review by the
713 commission. The commission may, by order, withdraw approval of
714 all or part of a plan if the commission determines that
715 conditions have changed since approval was granted and that the
716 purposes of the plan require changes in the plan. For the
717 purposes of this subsection, residential coverage includes both
718 personal lines residential coverage, which consists of the type
719 of coverage provided by homeowner, mobile home owner, dwelling,
720 tenant, condominium unit owner, and similar policies; and
721 commercial lines residential coverage, which consists of the
722 type of coverage provided by condominium association, apartment
723 building, and similar policies.

724 3. With respect to coverage for personal lines residential
725 structures:

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726 a. ~~Effective January 1, 2014, a structure that has a~~
727 ~~dwelling replacement cost of \$1 million or more, or a single~~
728 ~~condominium unit that has a combined dwelling and contents~~
729 ~~replacement cost of \$1 million or more, is not eligible for~~
730 ~~coverage by the corporation. Such dwellings insured by the~~
731 ~~corporation on December 31, 2013, may continue to be covered by~~
732 ~~the corporation until the end of the policy term. The office~~
733 ~~shall approve the method used by the corporation for valuing the~~
734 ~~dwelling replacement cost for the purposes of this subparagraph.~~
735 ~~If a policyholder is insured by the corporation before being~~
736 ~~determined to be ineligible pursuant to this subparagraph and~~
737 ~~such policyholder files a lawsuit challenging the determination,~~
738 ~~the policyholder may remain insured by the corporation until the~~
739 ~~conclusion of the litigation.~~

740 b. ~~Effective January 1, 2015, a structure that has a~~
741 ~~dwelling replacement cost of \$900,000 or more, or a single~~
742 ~~condominium unit that has a combined dwelling and contents~~
743 ~~replacement cost of \$900,000 or more, is not eligible for~~
744 ~~coverage by the corporation. Such dwellings insured by the~~
745 ~~corporation on December 31, 2014, may continue to be covered by~~
746 ~~the corporation only until the end of the policy term.~~

747 c. ~~Effective January 1, 2016, a structure that has a~~
748 ~~dwelling replacement cost of \$800,000 or more, or a single~~
749 ~~condominium unit that has a combined dwelling and contents~~
750 ~~replacement cost of \$800,000 or more, is not eligible for~~

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751 ~~coverage by the corporation. Such dwellings insured by the~~
 752 ~~corporation on December 31, 2015, may continue to be covered by~~
 753 ~~the corporation until the end of the policy term.~~

754 ~~d.~~ Effective January 1, 2017, a structure that has a
 755 dwelling replacement cost of \$700,000 or more, or a single
 756 condominium unit that has a combined dwelling and contents
 757 replacement cost of \$700,000 or more, is not eligible for
 758 coverage by the corporation. ~~Such dwellings insured by the~~
 759 ~~corporation on December 31, 2016, may continue to be covered by~~
 760 ~~the corporation until the end of the policy term.~~

761 b. The requirements of sub-subparagraph a. ~~sub-~~
 762 ~~subparagraphs b.-d.~~ do not apply in counties where the office
 763 determines there is not a reasonable degree of competition. In
 764 such counties a personal lines residential structure that has a
 765 dwelling replacement cost of less than \$1 million, or a single
 766 condominium unit that has a combined dwelling and contents
 767 replacement cost of less than \$1 million, is eligible for
 768 coverage by the corporation.

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

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776 and overall dealings with policyholders, applicants, or agents
 777 of the corporation.

778 5.a. Effective January 1, 2009, a personal lines
 779 residential structure that is located in the "wind-borne debris
 780 region," as defined in s. 1609.2, International Building Code
 781 (2006), and that has an insured value on the structure of
 782 \$750,000 or more is not eligible for coverage by the corporation
 783 unless the structure has opening protections as required under
 784 the Florida Building Code for a newly constructed residential
 785 structure in that area. A residential structure is deemed to
 786 comply with this sub-subparagraph if it has shutters or opening
 787 protections on all openings and if such opening protections
 788 complied with the Florida Building Code at the time they were
 789 installed.

790 b. Any major structure, as defined in s. 161.54(6)(a),
 791 that is newly constructed, or rebuilt, repaired, restored, or
 792 remodeled to increase the total square footage of finished area
 793 by more than 25 percent, pursuant to a permit applied for after
 794 July 1, 2015, is not eligible for coverage by the corporation if
 795 the structure is seaward of the coastal construction control
 796 line established pursuant to s. 161.053 or is within the Coastal
 797 Barrier Resources System as designated by 16 U.S.C. ss. 3501-
 798 3510.

799 6. With respect to wind-only coverage for commercial lines
 800 residential condominiums, effective July 1, 2014, a condominium

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801 shall be deemed ineligible for coverage if 50 percent or more of
802 the units are rented more than eight times in a calendar year
803 for a rental agreement period of less than 30 days.

804 (b)1. All insurers authorized to write one or more subject
805 lines of business in this state are subject to assessment by the
806 corporation and, for the purposes of this subsection, are
807 referred to collectively as "assessable insurers." Insurers
808 writing one or more subject lines of business in this state
809 pursuant to part VIII of chapter 626 are not assessable
810 insurers; however, insureds who procure one or more subject
811 lines of business in this state pursuant to part VIII of chapter
812 626 are subject to assessment by the corporation and are
813 referred to collectively as "assessable insureds." An insurer's
814 assessment liability begins on the first day of the calendar
815 year following the year in which the insurer was issued a
816 certificate of authority to transact insurance for subject lines
817 of business in this state and terminates 1 year after the end of
818 the first calendar year during which the insurer no longer holds
819 a certificate of authority to transact insurance for subject
820 lines of business in this state.

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

825 ~~a.(I) A personal lines account for~~ Personal residential

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826 | policies that provide ~~issued by the corporation which provides~~
 827 | comprehensive, multiperil coverage on risks that are not located
 828 | in areas eligible for coverage by the Florida Windstorm
 829 | Underwriting Association as those areas were defined on January
 830 | 1, 2002, and for policies that do not provide coverage for the
 831 | peril of wind on risks that are located in such areas;

832 | **b.**(II) ~~A commercial lines account for~~ Commercial
 833 | residential and commercial nonresidential policies that provide
 834 | ~~issued by the corporation which provides~~ coverage for basic
 835 | property perils on risks that are not located in areas eligible
 836 | for coverage by the Florida Windstorm Underwriting Association
 837 | as those areas were defined on January 1, 2002, and for policies
 838 | that do not provide coverage for the peril of wind on risks that
 839 | are located in such areas; and

840 | **c.**(III) ~~A coastal account for~~ Personal residential
 841 | policies and commercial residential and commercial
 842 | nonresidential property policies that provide ~~issued by the~~
 843 | ~~corporation which provides~~ coverage for the peril of wind on
 844 | risks that are located in areas eligible for coverage by the
 845 | Florida Windstorm Underwriting Association as those areas were
 846 | defined on January 1, 2002. The corporation may offer policies
 847 | that provide multiperil coverage and shall offer policies that
 848 | provide coverage only for the peril of wind for risks located in
 849 | areas eligible for coverage by the Florida Windstorm
 850 | Underwriting Association, as those areas were defined on January

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851 1, 2002 in the coastal account. Effective July 1, 2014, The
 852 corporation may not offer ~~shall cease offering~~ new commercial
 853 residential policies providing multiperil coverage but ~~and~~ shall
 854 ~~instead~~ continue to offer commercial residential wind-only
 855 policies, and may offer commercial residential policies
 856 excluding wind. However, the corporation may, ~~however,~~ continue
 857 to renew a commercial residential multiperil policy on a
 858 building that was ~~is~~ insured by the corporation on June 30,
 859 2014, under a multiperil policy. In issuing multiperil coverage
 860 under this sub-subparagraph, the corporation may use its
 861 approved policy forms and rates for risks located in areas not
 862 eligible for coverage by the Florida Windstorm Underwriting
 863 Association, as those areas were defined on January 1, 2002, and
 864 for policies that do not provide coverage for the peril of wind
 865 on risks that are located in such areas ~~the personal lines~~
 866 ~~account~~. An applicant or insured who is eligible to purchase a
 867 multiperil policy from the corporation may purchase a multiperil
 868 policy from an authorized insurer without prejudice to the
 869 applicant's or insured's eligibility to prospectively purchase a
 870 policy that provides coverage only for the peril of wind from
 871 the corporation. An applicant or insured who is eligible for a
 872 corporation policy that provides coverage only for the peril of
 873 wind may elect to purchase or retain such policy and also
 874 purchase or retain coverage excluding wind from an authorized
 875 insurer without prejudice to the applicant's or insured's

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876 eligibility to prospectively purchase a policy that provides
 877 multiperil coverage from the corporation. The following
 878 policies, which provide coverage only for the peril of wind,
 879 must also include quota share primary insurance under
 880 subparagraph (c)2.:

881 (I) Personal residential policies and commercial
 882 residential and commercial nonresidential property policies that
 883 provide coverage for the peril of wind on risks that are located
 884 in areas eligible for coverage by the Florida Windstorm
 885 Underwriting Association, as those areas were defined on January
 886 1, 2002;

887 (II) Policies that provide multiperil coverage, if offered
 888 by the corporation, and policies that provide coverage only for
 889 the peril of wind for risks located in areas eligible for
 890 coverage by the Florida Windstorm Underwriting Association, as
 891 those areas were defined on January 1, 2002;

892 (III) Commercial residential wind-only policies;

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

895 (V) Commercial residential multiperil policies on a
 896 building that was insured by the corporation on June 30, 2014 ~~It~~
 897 is the goal of the Legislature that there be an overall average
 898 savings of 10 percent or more for a policyholder who currently
 899 has a wind-only policy with the corporation, and an ex-wind
 900 policy with a voluntary insurer or the corporation, and who

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901 ~~obtains a multiperil policy from the corporation. It is the~~
 902 ~~intent of the Legislature that the offer of multiperil coverage~~
 903 ~~in the coastal account be made and implemented in a manner that~~
 904 ~~does not adversely affect the tax-exempt status of the~~
 905 ~~corporation or creditworthiness of or security for currently~~
 906 ~~outstanding financing obligations or credit facilities of the~~
 907 ~~coastal account, the personal lines account, or the commercial~~
 908 ~~lines account. The coastal account must also include quota share~~
 909 ~~primary insurance under subparagraph (c)2.~~

910
 911 The area eligible for coverage with the corporation under this
 912 sub-subparagraph under the coastal account also includes the
 913 area within Port Canaveral, which is bordered on the south by
 914 the City of Cape Canaveral, bordered on the west by the Banana
 915 River, and bordered on the north by Federal Government property.

916 3. With respect to a deficit in the Citizens account:
 917 a. Upon a determination by the board of governors that the
 918 Citizens account has a projected deficit, the board shall levy a
 919 Citizens policyholder surcharge against all policyholders of the
 920 corporation.

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

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

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

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

932 ~~b. The three separate accounts must be maintained as long~~
933 ~~as financing obligations entered into by the Florida Windstorm~~
934 ~~Underwriting Association or Residential Property and Casualty~~
935 ~~Joint Underwriting Association are outstanding, in accordance~~
936 ~~with the terms of the corresponding financing documents. If no~~
937 ~~such financing obligations remain outstanding or if the~~
938 ~~financing documents allow for combining of accounts, the~~
939 ~~corporation may consolidate the three separate accounts into a~~
940 ~~new account, to be known as the Citizens account, for all~~
941 ~~revenues, assets, liabilities, losses, and expenses of the~~
942 ~~corporation. The Citizens account, if established by the~~
943 ~~corporation, is authorized to provide coverage to the same~~
944 ~~extent as provided under each of the three separate accounts.~~
945 ~~The authority to provide coverage under the Citizens account is~~
946 ~~set forth in subparagraph 4. Consistent with this subparagraph~~
947 ~~and prudent investment policies that minimize the cost of~~
948 ~~carrying debt, the board shall exercise its best efforts to~~
949 ~~retire existing debt or obtain the approval of necessary parties~~
950 ~~to amend the terms of existing debt, so as to structure the most~~

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951 ~~efficient plan for consolidating the three separate accounts~~
 952 ~~into a single account. Once the accounts are combined into one~~
 953 ~~account, this subparagraph and subparagraph 3. shall be replaced~~
 954 ~~in their entirety by subparagraphs 4. and 5.~~

955 ~~e. Creditors of the Residential Property and Casualty~~
 956 ~~Joint Underwriting Association and the accounts specified in~~
 957 ~~sub-sub-subparagraphs a.(I) and (II) may have a claim against,~~
 958 ~~and recourse to, those accounts and no claim against, or~~
 959 ~~recourse to, the account referred to in sub-sub-subparagraph~~
 960 ~~a.(III). Creditors of the Florida Windstorm Underwriting~~
 961 ~~Association have a claim against, and recourse to, the account~~
 962 ~~referred to in sub-sub-subparagraph a.(III) and no claim~~
 963 ~~against, or recourse to, the accounts referred to in sub-sub-~~
 964 ~~subparagraphs a.(I) and (II).~~

965 ~~d. Revenues, assets, liabilities, losses, and expenses not~~
 966 ~~attributable to particular accounts shall be prorated among the~~
 967 ~~accounts.~~

968 ~~e. The Legislature finds that the revenues of the~~
 969 ~~corporation are revenues that are necessary to meet the~~
 970 ~~requirements set forth in documents authorizing the issuance of~~
 971 ~~bonds under this subsection.~~

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

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

975 ~~a. After accounting for the Citizens policyholder~~

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976 ~~surcharge imposed under sub-subparagraph j., if the remaining~~
977 ~~projected deficit incurred in the coastal account in a~~
978 ~~particular calendar year:~~

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

984 ~~(II) Exceeds 2 percent of the aggregate statewide direct~~
985 ~~written premium for the subject lines of business for the prior~~
986 ~~calendar year, the corporation shall levy regular assessments on~~
987 ~~assessable insurers under paragraph (q) and on assessable~~
988 ~~insureds in an amount equal to the greater of 2 percent of the~~
989 ~~projected deficit or 2 percent of the aggregate statewide direct~~
990 ~~written premium for the subject lines of business for the prior~~
991 ~~calendar year. Any remaining projected deficit shall be~~
992 ~~recovered through emergency assessments under sub-subparagraph~~
993 ~~e.~~

994 ~~b. Each assessable insurer's share of the amount being~~
995 ~~assessed under sub-subparagraph a. must be in the proportion~~
996 ~~that the assessable insurer's direct written premium for the~~
997 ~~subject lines of business for the year preceding the assessment~~
998 ~~bears to the aggregate statewide direct written premium for the~~
999 ~~subject lines of business for that year. The assessment~~
1000 ~~percentage applicable to each assessable insured is the ratio of~~

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1001 ~~the amount being assessed under sub-subparagraph a. to the~~
 1002 ~~aggregate statewide direct written premium for the subject lines~~
 1003 ~~of business for the prior year. Assessments levied by the~~
 1004 ~~corporation on assessable insurers under sub-subparagraph a.~~
 1005 ~~must be paid as required by the corporation's plan of operation~~
 1006 ~~and paragraph (q). Assessments levied by the corporation on~~
 1007 ~~assessable insureds under sub-subparagraph a. shall be collected~~
 1008 ~~by the surplus lines agent at the time the surplus lines agent~~
 1009 ~~collects the surplus lines tax required by s. 626.932, and paid~~
 1010 ~~to the Florida Surplus Lines Service Office at the time the~~
 1011 ~~surplus lines agent pays the surplus lines tax to that office.~~
 1012 ~~Upon receipt of regular assessments from surplus lines agents,~~
 1013 ~~the Florida Surplus Lines Service Office shall transfer the~~
 1014 ~~assessments directly to the corporation as determined by the~~
 1015 ~~corporation.~~

1016 ~~e. The corporation may not levy regular assessments under~~
 1017 ~~paragraph (q) pursuant to sub-subparagraph a. or sub-~~
 1018 ~~subparagraph b. if the three separate accounts in sub-sub-~~
 1019 ~~subparagraphs 2.a.(I)-(III) have been consolidated into the~~
 1020 ~~Citizens account pursuant to sub-subparagraph 2.b. However, the~~
 1021 ~~outstanding balance of any regular assessment levied by the~~
 1022 ~~corporation before establishment of the Citizens account remains~~
 1023 ~~payable to the corporation.~~

1024 ~~b.d.~~ After accounting for the Citizens policyholder
 1025 surcharge imposed under sub-subparagraph a. j., the remaining

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1026 | projected deficits in the Citizens ~~personal lines~~ account and in
1027 | ~~the commercial lines account~~ in a particular calendar year shall
1028 | be recovered through emergency assessments under sub-
1029 | subparagraph c. ~~e.~~

1030 | ~~c.e.~~ Upon a determination by the board of governors that a
1031 | projected deficit in the Citizens ~~an~~ account exceeds the amount
1032 | that is expected to be recovered through surcharges ~~regular~~
1033 | ~~assessments under sub-subparagraph a., plus the amount that is~~
1034 | ~~expected to be recovered through surcharges under sub-~~
1035 | ~~subparagraph j.~~, the board, after verification by the office,
1036 | shall levy emergency assessments for as many years as necessary
1037 | to cover the deficits, to be collected by assessable insurers
1038 | and the corporation and collected from assessable insureds upon
1039 | issuance or renewal of policies for subject lines of business,
1040 | excluding National Flood Insurance Program policies. The amount
1041 | collected in a particular year must be a uniform percentage of
1042 | that year's direct written premium for subject lines of business
1043 | and the Citizens account ~~all accounts of the corporation,~~
1044 | excluding National Flood Insurance Program policy premiums, as
1045 | annually determined by the board and verified by the office. The
1046 | office shall verify the arithmetic calculations involved in the
1047 | board's determination within 30 days after receipt of the
1048 | information on which the determination was based. The office
1049 | shall notify assessable insurers and the Florida Surplus Lines
1050 | Service Office of the date on which assessable insurers shall

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1051 begin to collect and assessable insureds shall begin to pay such
1052 assessment. The date must be at least 90 days after the date the
1053 corporation levies emergency assessments pursuant to this sub-
1054 subparagraph. Notwithstanding any other ~~provision of law~~, the
1055 corporation and each assessable insurer that writes subject
1056 lines of business shall collect emergency assessments from its
1057 policyholders without such obligation being affected by any
1058 credit, limitation, exemption, or deferment. Emergency
1059 assessments levied by the corporation on assessable insureds
1060 shall be collected by the surplus lines agent at the time the
1061 surplus lines agent collects the surplus lines tax required by
1062 s. 626.932 and paid to the Florida Surplus Lines Service Office
1063 at the time the surplus lines agent pays the surplus lines tax
1064 to that office. The emergency assessments collected shall be
1065 transferred directly to the corporation on a periodic basis as
1066 determined by the corporation and held by the corporation solely
1067 in the Citizens ~~applicable~~ account. The aggregate amount of
1068 emergency assessments levied for the Citizens ~~an~~ account in any
1069 calendar year may be less than but may not exceed the greater of
1070 10 percent of the amount needed to cover the deficit, plus
1071 interest, fees, commissions, required reserves, and other costs
1072 associated with financing the original deficit, or 10 percent of
1073 the aggregate statewide direct written premium for subject lines
1074 of business and the Citizens account ~~all accounts~~ of the
1075 corporation for the prior year, plus interest, fees,

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1076 | commissions, required reserves, and other costs associated with
 1077 | financing the deficit.
 1078 | ~~d.f.~~ The corporation may pledge the proceeds of
 1079 | assessments, projected recoveries from the Florida Hurricane
 1080 | Catastrophe Fund, other insurance and reinsurance recoverables,
 1081 | policyholder surcharges and other surcharges, and other funds
 1082 | available to the corporation as the source of revenue for and to
 1083 | secure bonds issued under paragraph (q), bonds or other
 1084 | indebtedness issued under subparagraph (c)3., or lines of credit
 1085 | or other financing mechanisms issued or created under this
 1086 | subsection, or to retire any other debt incurred as a result of
 1087 | deficits or events giving rise to deficits, or in any other way
 1088 | that the board determines will efficiently recover such
 1089 | deficits. The purpose of the lines of credit or other financing
 1090 | mechanisms is to provide additional resources to assist the
 1091 | corporation in covering claims and expenses attributable to a
 1092 | catastrophe. As used in this subsection, the term "assessments"
 1093 | includes emergency ~~regular~~ assessments under sub-subparagraph c.
 1094 | ~~a. or subparagraph (q)1. and emergency assessments under sub-~~
 1095 | ~~subparagraph e.~~ Emergency assessments collected under sub-
 1096 | subparagraph c. e. are not part of an insurer's rates, are not
 1097 | premium, and are not subject to premium tax, fees, or
 1098 | commissions; however, failure to pay the emergency assessment
 1099 | shall be treated as failure to pay premium. The emergency
 1100 | assessments shall continue as long as any bonds issued or other

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1101 indebtedness incurred with respect to a deficit for which the
 1102 assessment was imposed remain outstanding, unless adequate
 1103 provision has been made for the payment of such bonds or other
 1104 indebtedness pursuant to the documents governing such bonds or
 1105 indebtedness.

1106 ~~e.g.~~ As used in this subsection and for purposes of any
 1107 deficit incurred on or after January 25, 2007, the term "subject
 1108 lines of business" means insurance written by assessable
 1109 insurers or procured by assessable insureds for all property and
 1110 casualty lines of business in this state, but not including
 1111 workers' compensation or medical malpractice. As used in this
 1112 sub-subparagraph, the term "property and casualty lines of
 1113 business" includes all lines of business identified on Form 2,
 1114 Exhibit of Premiums and Losses, in the annual statement required
 1115 of authorized insurers under s. 624.424 and any rule adopted
 1116 under this section, except for those lines identified as
 1117 accident and health insurance and except for policies written
 1118 under the National Flood Insurance Program or the Federal Crop
 1119 Insurance Program. For purposes of this sub-subparagraph, the
 1120 term "workers' compensation" includes both workers' compensation
 1121 insurance and excess workers' compensation insurance.

1122 ~~f.h.~~ The Florida Surplus Lines Service Office shall
 1123 annually determine ~~annually~~ the aggregate statewide written
 1124 premium in subject lines of business procured by assessable
 1125 insureds and report that information to the corporation in a

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1126 form and at a time the corporation specifies to ensure that the
 1127 corporation can meet the requirements of this subsection and the
 1128 corporation's financing obligations.

1129 g.~~i.~~ The Florida Surplus Lines Service Office shall verify
 1130 the proper application by surplus lines agents of assessment
 1131 percentages for ~~regular assessments and~~ emergency assessments
 1132 levied under this subparagraph on assessable insureds and assist
 1133 the corporation in ensuring the accurate, timely collection and
 1134 payment of assessments by surplus lines agents as required by
 1135 the corporation.

1136 ~~j.~~ Upon ~~determination by the board of governors that an~~
 1137 ~~account has a projected deficit, the board shall levy a Citizens~~
 1138 ~~policyholder surcharge against all policyholders of the~~
 1139 ~~corporation.~~

1140 ~~(I) The surcharge shall be levied as a uniform percentage~~
 1141 ~~of the premium for the policy of up to 15 percent of such~~
 1142 ~~premium, which funds shall be used to offset the deficit.~~

1143 ~~(II) The surcharge is payable upon cancellation or~~
 1144 ~~termination of the policy, upon renewal of the policy, or upon~~
 1145 ~~issuance of a new policy by the corporation within the first 12~~
 1146 ~~months after the date of the levy or the period of time~~
 1147 ~~necessary to fully collect the surcharge amount.~~

1148 ~~(III) The corporation may not levy any regular assessments~~
 1149 ~~under paragraph (q) pursuant to sub-subparagraph a. or sub-~~
 1150 ~~subparagraph b. with respect to a particular year's deficit~~

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1151 ~~until the corporation has first levied the full amount of the~~
 1152 ~~surcharge authorized by this sub-subparagraph.~~

1153 ~~(IV) The surcharge is not considered premium and is not~~
 1154 ~~subject to commissions, fees, or premium taxes. However, failure~~
 1155 ~~to pay the surcharge shall be treated as failure to pay premium.~~

1156 h.k. If the amount of any assessments or surcharges
 1157 collected from corporation policyholders, assessable insurers or
 1158 their policyholders, or assessable insureds exceeds the amount
 1159 of the deficits, such excess amounts shall be remitted to and
 1160 retained by the corporation in a reserve to be used by the
 1161 corporation, as determined by the board of governors and
 1162 approved by the office, to pay claims or reduce any past,
 1163 present, or future plan-year deficits or to reduce outstanding
 1164 debt.

1165 ~~4. The Citizens account, if established by the corporation~~
 1166 ~~pursuant to sub-subparagraph 2.b., is authorized to provide:~~

1167 ~~a. Personal residential policies that provide~~
 1168 ~~comprehensive, multiperil coverage on risks that are not located~~
 1169 ~~in areas eligible for coverage by the Florida Windstorm~~
 1170 ~~Underwriting Association, as those areas were defined on January~~
 1171 ~~1, 2002, and for policies that do not provide coverage for the~~
 1172 ~~peril of wind on risks that are located in such areas;~~

1173 ~~b. Commercial residential and commercial nonresidential~~
 1174 ~~policies that provide coverage for basic property perils on~~
 1175 ~~risks that are not located in areas eligible for coverage by the~~

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1176 ~~Florida Windstorm Underwriting Association, as those areas were~~
 1177 ~~defined on January 1, 2002, and for policies that do not provide~~
 1178 ~~coverage for the peril of wind on risks that are located in such~~
 1179 ~~areas; and~~

1180 ~~e. Personal residential policies and commercial~~
 1181 ~~residential and commercial nonresidential property policies that~~
 1182 ~~provide coverage for the peril of wind on risks that are located~~
 1183 ~~in areas eligible for coverage by the Florida Windstorm~~
 1184 ~~Underwriting Association, as those areas were defined on January~~
 1185 ~~1, 2002. The corporation may offer policies that provide~~
 1186 ~~multiperil coverage and shall offer policies that provide~~
 1187 ~~coverage only for the peril of wind for risks located in areas~~
 1188 ~~eligible for coverage by the Florida Windstorm Underwriting~~
 1189 ~~Association, as those areas were defined on January 1, 2002. The~~
 1190 ~~corporation may not offer new commercial residential policies~~
 1191 ~~providing multiperil coverage, but shall continue to offer~~
 1192 ~~commercial residential wind-only policies, and may offer~~
 1193 ~~commercial residential policies excluding wind. However, the~~
 1194 ~~corporation may continue to renew a commercial residential~~
 1195 ~~multiperil policy on a building that was insured by the~~
 1196 ~~corporation on June 30, 2014, under a multiperil policy. In~~
 1197 ~~issuing multiperil coverage under this sub-subparagraph, the~~
 1198 ~~corporation may use its approved policy forms and rates for~~
 1199 ~~risks located in areas not eligible for coverage by the Florida~~
 1200 ~~Windstorm Underwriting Association as those areas were defined~~

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1201 ~~on January 1, 2002, and for policies that do not provide~~
 1202 ~~coverage for the peril of wind on risks that are located in such~~
 1203 ~~areas. An applicant or insured who is eligible to purchase a~~
 1204 ~~multiperil policy from the corporation may purchase a multiperil~~
 1205 ~~policy from an authorized insurer without prejudice to the~~
 1206 ~~applicant's or insured's eligibility to prospectively purchase a~~
 1207 ~~policy that provides coverage only for the peril of wind from~~
 1208 ~~the corporation. An applicant or insured who is eligible for a~~
 1209 ~~corporation policy that provides coverage only for the peril of~~
 1210 ~~wind may elect to purchase or retain such policy and also~~
 1211 ~~purchase or retain coverage excluding wind from an authorized~~
 1212 ~~insurer without prejudice to the applicant's or insured's~~
 1213 ~~eligibility to prospectively purchase a policy that provides~~
 1214 ~~multiperil coverage from the corporation. The following~~
 1215 ~~policies, which provide coverage only for the peril of wind,~~
 1216 ~~must also include quota share primary insurance under~~
 1217 ~~subparagraph (c)2.: Personal residential policies and commercial~~
 1218 ~~residential and commercial nonresidential property policies that~~
 1219 ~~provide coverage for the peril of wind on risks that are located~~
 1220 ~~in areas eligible for coverage by the Florida Windstorm~~
 1221 ~~Underwriting Association, as those areas were defined on January~~
 1222 ~~1, 2002; policies that provide multiperil coverage, if offered~~
 1223 ~~by the corporation, and policies that provide coverage only for~~
 1224 ~~the peril of wind for risks located in areas eligible for~~
 1225 ~~coverage by the Florida Windstorm Underwriting Association, as~~

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1226 ~~those areas were defined on January 1, 2002; commercial~~
1227 ~~residential wind-only policies; commercial residential policies~~
1228 ~~excluding wind, if offered by the corporation; and commercial~~
1229 ~~residential multiperil policies on a building that was insured~~
1230 ~~by the corporation on June 30, 2014. The area eligible for~~
1231 ~~coverage with the corporation under this sub-subparagraph~~
1232 ~~includes the area within Port Canaveral, which is bordered on~~
1233 ~~the south by the City of Cape Canaveral, bordered on the west by~~
1234 ~~the Banana River, and bordered on the north by Federal~~
1235 ~~Government property.~~

1236 ~~5. With respect to a deficit in the Citizens account:~~

1237 ~~a. Upon a determination by the board of governors that the~~
1238 ~~Citizens account has a projected deficit, the board shall levy a~~
1239 ~~Citizens policyholder surcharge against all policyholders of the~~
1240 ~~corporation.~~

1241 ~~(I) The surcharge shall be levied as a uniform percentage~~
1242 ~~of the premium for the policy of up to 15 percent of such~~
1243 ~~premium, which funds shall be used to offset the deficit.~~

1244 ~~(II) The surcharge is payable upon cancellation or~~
1245 ~~termination of the policy, upon renewal of the policy, or upon~~
1246 ~~issuance of a new policy by the corporation within the first 12~~
1247 ~~months after the date of the levy or the period of time~~
1248 ~~necessary to fully collect the surcharge amount.~~

1249 ~~(III) The surcharge is not considered premium and is not~~
1250 ~~subject to commissions, fees, or premium taxes. However, failure~~

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1251 ~~to pay the surcharge shall be treated as failure to pay premium.~~

1252 ~~b. After accounting for the Citizens policyholder~~

1253 ~~surcharge imposed under sub-subparagraph a., the remaining~~

1254 ~~projected deficit incurred in the Citizens account in a~~

1255 ~~particular calendar year shall be recovered through emergency~~

1256 ~~assessments under sub-subparagraph c.~~

1257 ~~e. Upon a determination by the board of governors that a~~

1258 ~~projected deficit in the Citizens account exceeds the amount~~

1259 ~~that is expected to be recovered through surcharges under sub-~~

1260 ~~subparagraph a., the board, after verification by the office,~~

1261 ~~shall levy emergency assessments for as many years as necessary~~

1262 ~~to cover the deficits, to be collected by assessable insurers~~

1263 ~~and the corporation and collected from assessable insureds upon~~

1264 ~~issuance or renewal of policies for subject lines of business,~~

1265 ~~excluding National Flood Insurance Program policies. The amount~~

1266 ~~collected in a particular year must be a uniform percentage of~~

1267 ~~that year's direct written premium for subject lines of business~~

1268 ~~and the Citizens account, National Flood Insurance Program~~

1269 ~~policy premiums, as annually determined by the board and~~

1270 ~~verified by the office. The office shall verify the arithmetic~~

1271 ~~calculations involved in the board's determination within 30~~

1272 ~~days after receipt of the information on which the determination~~

1273 ~~was based. The office shall notify assessable insurers and the~~

1274 ~~Florida Surplus Lines Service Office of the date on which~~

1275 ~~assessable insurers shall begin to collect and assessable~~

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1276 ~~insureds shall begin to pay such assessment. The date must be at~~
1277 ~~least 90 days after the date the corporation levies emergency~~
1278 ~~assessments pursuant to this sub-subparagraph. Notwithstanding~~
1279 ~~any other law, the corporation and each assessable insurer that~~
1280 ~~writes subject lines of business shall collect emergency~~
1281 ~~assessments from its policyholders without such obligation being~~
1282 ~~affected by any credit, limitation, exemption, or deferment.~~
1283 ~~Emergency assessments levied by the corporation on assessable~~
1284 ~~insureds shall be collected by the surplus lines agent at the~~
1285 ~~time the surplus lines agent collects the surplus lines tax~~
1286 ~~required by s. 626.932 and paid to the Florida Surplus Lines~~
1287 ~~Service Office at the time the surplus lines agent pays the~~
1288 ~~surplus lines tax to that office. The emergency assessments~~
1289 ~~collected shall be transferred directly to the corporation on a~~
1290 ~~periodic basis as determined by the corporation and held by the~~
1291 ~~corporation solely in the Citizens account. The aggregate amount~~
1292 ~~of emergency assessments levied for the Citizens account in any~~
1293 ~~calendar year may be less than, but may not exceed the greater~~
1294 ~~of, 10 percent of the amount needed to cover the deficit, plus~~
1295 ~~interest, fees, commissions, required reserves, and other costs~~
1296 ~~associated with financing the original deficit or 10 percent of~~
1297 ~~the aggregate statewide direct written premium for subject lines~~
1298 ~~of business and the Citizens accounts for the prior year, plus~~
1299 ~~interest, fees, commissions, required reserves, and other costs~~
1300 ~~associated with financing the deficit.~~

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1301 ~~d. The corporation may pledge the proceeds of assessments,~~
 1302 ~~projected recoveries from the Florida Hurricane Catastrophe~~
 1303 ~~Fund, other insurance and reinsurance recoverables, policyholder~~
 1304 ~~surcharges and other surcharges, and other funds available to~~
 1305 ~~the corporation as the source of revenue for and to secure bonds~~
 1306 ~~issued under paragraph (q), bonds or other indebtedness issued~~
 1307 ~~under subparagraph (c)3., or lines of credit or other financing~~
 1308 ~~mechanisms issued or created under this subsection; or to retire~~
 1309 ~~any other debt incurred as a result of deficits or events giving~~
 1310 ~~rise to deficits, or in any other way that the board determines~~
 1311 ~~will efficiently recover such deficits. The purpose of the lines~~
 1312 ~~of credit or other financing mechanisms is to provide additional~~
 1313 ~~resources to assist the corporation in covering claims and~~
 1314 ~~expenses attributable to a catastrophe. As used in this~~
 1315 ~~subsection, the term "assessments" includes emergency~~
 1316 ~~assessments under sub-subparagraph c. Emergency assessments~~
 1317 ~~collected under sub-subparagraph c. are not part of an insurer's~~
 1318 ~~rates, are not premium, and are not subject to premium tax,~~
 1319 ~~fees, or commissions; however, failure to pay the emergency~~
 1320 ~~assessment shall be treated as failure to pay premium. The~~
 1321 ~~emergency assessments shall continue as long as any bonds issued~~
 1322 ~~or other indebtedness incurred with respect to a deficit for~~
 1323 ~~which the assessment was imposed remain outstanding, unless~~
 1324 ~~adequate provision has been made for the payment of such bonds~~
 1325 ~~or other indebtedness pursuant to the documents governing such~~

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1326 ~~bonds or indebtedness.~~

1327 ~~e. As used in this subsection and for purposes of any~~

1328 ~~deficit incurred on or after January 25, 2007, the term "subject~~

1329 ~~lines of business" means insurance written by assessable~~

1330 ~~insurers or procured by assessable insureds for all property and~~

1331 ~~casualty lines of business in this state, but not including~~

1332 ~~workers' compensation or medical malpractice. As used in this~~

1333 ~~sub-subparagraph, the term "property and casualty lines of~~

1334 ~~business" includes all lines of business identified on Form 2,~~

1335 ~~Exhibit of Premiums and Losses, in the annual statement required~~

1336 ~~of authorized insurers under s. 624.424 and any rule adopted~~

1337 ~~under this section, except for those lines identified as~~

1338 ~~accident and health insurance and except for policies written~~

1339 ~~under the National Flood Insurance Program or the Federal Crop~~

1340 ~~Insurance Program. For purposes of this sub-subparagraph, the~~

1341 ~~term "workers' compensation" includes both workers' compensation~~

1342 ~~insurance and excess workers' compensation insurance.~~

1343 ~~f. The Florida Surplus Lines Service Office shall annually~~

1344 ~~determine the aggregate statewide written premium in subject~~

1345 ~~lines of business procured by assessable insureds and report~~

1346 ~~that information to the corporation in a form and at a time the~~

1347 ~~corporation specifies to ensure that the corporation can meet~~

1348 ~~the requirements of this subsection and the corporation's~~

1349 ~~financing obligations.~~

1350 ~~g. The Florida Surplus Lines Service Office shall verify~~

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1351 ~~the proper application by surplus lines agents of assessment~~
 1352 ~~percentages for emergency assessments levied under this~~
 1353 ~~subparagraph on assessable insureds and assist the corporation~~
 1354 ~~in ensuring the accurate, timely collection and payment of~~
 1355 ~~assessments by surplus lines agents as required by the~~
 1356 ~~corporation.~~

1357 ~~h. If the amount of any assessments or surcharges~~
 1358 ~~collected from corporation policyholders, assessable insurers or~~
 1359 ~~their policyholders, or assessable insureds exceeds the amount~~
 1360 ~~of the deficits, such excess amounts shall be remitted to and~~
 1361 ~~retained by the corporation in a reserve to be used by the~~
 1362 ~~corporation, as determined by the board of governors and~~
 1363 ~~approved by the office, to pay claims or reduce any past,~~
 1364 ~~present, or future plan-year deficits or to reduce outstanding~~
 1365 ~~debt.~~

1366 (c) The corporation's plan of operation:

1367 1. Must provide for adoption of residential property and
 1368 casualty insurance policy forms and commercial residential and
 1369 nonresidential property insurance forms, which must be approved
 1370 by the office before use. The corporation shall adopt the
 1371 following policy forms:

1372 a. Standard personal lines policy forms that are
 1373 comprehensive multiperil policies providing full coverage of a
 1374 residential property equivalent to the coverage provided in the
 1375 private insurance market under an HO-3, HO-4, or HO-6 policy.

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1376 b. Basic personal lines policy forms that are policies
 1377 similar to an HO-8 policy or a dwelling fire policy that provide
 1378 coverage meeting the requirements of the secondary mortgage
 1379 market, but which is more limited than the coverage under a
 1380 standard policy.

1381 c. Commercial lines residential and nonresidential policy
 1382 forms that are generally similar to the basic perils of full
 1383 coverage obtainable for commercial residential structures and
 1384 commercial nonresidential structures in the admitted voluntary
 1385 market.

1386 d. Personal lines and commercial lines residential
 1387 property insurance forms that cover the peril of wind only. The
 1388 forms are applicable only to residential properties located in
 1389 areas eligible for coverage by the Florida Windstorm
 1390 Underwriting Association, as those areas were defined on January
 1391 1, 2002.

1392 e. Commercial lines nonresidential property insurance
 1393 forms that cover the peril of wind only. The forms are
 1394 applicable only to nonresidential properties located in areas
 1395 eligible for coverage by the Florida Windstorm Underwriting
 1396 Association, as those areas were defined on January 1, 2002.

1397 f. The corporation may adopt variations of the policy
 1398 forms listed in sub-subparagraphs a.-e. which contain more
 1399 restrictive coverage.

1400 g. The corporation shall offer a basic personal lines

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1401 policy similar to an HO-8 policy with dwelling repair based on
 1402 common construction materials and methods.

1403 2. Must provide that the corporation adopt a program in
 1404 which the corporation and authorized insurers enter into quota
 1405 share primary insurance agreements for hurricane coverage, as
 1406 defined in s. 627.4025(2)(a), for eligible risks, and adopt
 1407 property insurance forms for eligible risks which cover the
 1408 peril of wind only.

1409 a. As used in this subsection, the term:

1410 (I) "Approved surplus lines insurer" means an eligible
 1411 surplus lines insurer that:

1412 (A) Has a financial strength rating of "A-" or higher from
 1413 A.M. Best Company;

1414 (B) Has a personal lines residential risk program that is
 1415 managed by a Florida resident surplus lines broker;

1416 (C) Applies to the office to participate in the take-out
 1417 process to offer coverage to applicants for new coverage from
 1418 the corporation or current policyholders of the corporation
 1419 through a take-out plan approved by the office;

1420 (D) Does not, as part of any take-out plan approved by the
 1421 office, offer coverage on any personal lines residential risk
 1422 that is a primary residence or has a homestead exemption under
 1423 chapter 196;

1424 (E) Files rates for review as part of a take-out plan with
 1425 the office. The office shall review whether the premium is more

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1426 than 20 percent greater than the premium for comparable coverage
 1427 from the corporation; and

1428 (F) Provides data to the office related to coverage and
 1429 rates in a format promulgated by the commission.

1430 (III) "Primary residence" means the dwelling that is the
 1431 policyholder's primary home or is a rental property that is the
 1432 primary home of the tenant, and which the policyholder or tenant
 1433 occupies for more than 9 months of each year.

1434 (IV)~~(I)~~ "Quota share primary insurance" means an
 1435 arrangement in which the primary hurricane coverage of an
 1436 eligible risk is provided in specified percentages by the
 1437 corporation and an authorized insurer. The corporation and
 1438 authorized insurer are each solely responsible for a specified
 1439 percentage of hurricane coverage of an eligible risk as set
 1440 forth in a quota share primary insurance agreement between the
 1441 corporation and an authorized insurer and the insurance
 1442 contract. The responsibility of the corporation or authorized
 1443 insurer to pay its specified percentage of hurricane losses of
 1444 an eligible risk, as set forth in the agreement, may not be
 1445 altered by the inability of the other party to pay its specified
 1446 percentage of losses. Eligible risks that are provided hurricane
 1447 coverage through a quota share primary insurance arrangement
 1448 must be provided policy forms that set forth the obligations of
 1449 the corporation and authorized insurer under the arrangement,
 1450 clearly specify the percentages of quota share primary insurance

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1451 provided by the corporation and authorized insurer, and
1452 conspicuously and clearly state that the authorized insurer and
1453 the corporation may not be held responsible beyond their
1454 specified percentage of coverage of hurricane losses.

1455 (II) "Eligible risks" means personal lines residential and
1456 commercial lines residential risks that meet the underwriting
1457 criteria of the corporation and are located in areas that were
1458 eligible for coverage by the Florida Windstorm Underwriting
1459 Association on January 1, 2002.

1460 b. The corporation may enter into quota share primary
1461 insurance agreements with authorized insurers at corporation
1462 coverage levels of 90 percent and 50 percent.

1463 c. If the corporation determines that additional coverage
1464 levels are necessary to maximize participation in quota share
1465 primary insurance agreements by authorized insurers, the
1466 corporation may establish additional coverage levels. However,
1467 the corporation's quota share primary insurance coverage level
1468 may not exceed 90 percent.

1469 d. Any quota share primary insurance agreement entered
1470 into between an authorized insurer and the corporation must
1471 provide for a uniform specified percentage of coverage of
1472 hurricane losses, by county or territory as set forth by the
1473 corporation board, for all eligible risks of the authorized
1474 insurer covered under the agreement.

1475 e. Any quota share primary insurance agreement entered

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1476 into between an authorized insurer and the corporation is
 1477 subject to review and approval by the office. However, such
 1478 agreement shall be authorized only as to insurance contracts
 1479 entered into between an authorized insurer and an insured who is
 1480 already insured by the corporation for wind coverage.

1481 f. For all eligible risks covered under quota share
 1482 primary insurance agreements, the exposure and coverage levels
 1483 for both the corporation and authorized insurers shall be
 1484 reported by the corporation to the Florida Hurricane Catastrophe
 1485 Fund. For all policies of eligible risks covered under such
 1486 agreements, the corporation and the authorized insurer must
 1487 maintain complete and accurate records for the purpose of
 1488 exposure and loss reimbursement audits as required by fund
 1489 rules. The corporation and the authorized insurer shall each
 1490 maintain duplicate copies of policy declaration pages and
 1491 supporting claims documents.

1492 g. The corporation board shall establish in its plan of
 1493 operation standards for quota share agreements which ensure that
 1494 there is no discriminatory application among insurers as to the
 1495 terms of the agreements, pricing of the agreements, incentive
 1496 provisions if any, and consideration paid for servicing policies
 1497 or adjusting claims.

1498 h. The quota share primary insurance agreement between the
 1499 corporation and an authorized insurer must set forth the
 1500 specific terms under which coverage is provided, including, but

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1501 not limited to, the sale and servicing of policies issued under
1502 the agreement by the insurance agent of the authorized insurer
1503 producing the business, the reporting of information concerning
1504 eligible risks, the payment of premium to the corporation, and
1505 arrangements for the adjustment and payment of hurricane claims
1506 incurred on eligible risks by the claims adjuster and personnel
1507 of the authorized insurer. Entering into a quota sharing
1508 insurance agreement between the corporation and an authorized
1509 insurer is voluntary and at the discretion of the authorized
1510 insurer.

1511 3. May provide that the corporation may employ or
1512 otherwise contract with individuals or other entities to provide
1513 administrative or professional services that may be appropriate
1514 to effectuate the plan. The corporation may borrow funds by
1515 issuing bonds or by incurring other indebtedness, and shall have
1516 other powers reasonably necessary to effectuate the requirements
1517 of this subsection, including, without limitation, the power to
1518 issue bonds and incur other indebtedness in order to refinance
1519 outstanding bonds or other indebtedness. The corporation may
1520 seek judicial validation of its bonds or other indebtedness
1521 under chapter 75. The corporation may issue bonds or incur other
1522 indebtedness, or have bonds issued on its behalf by a unit of
1523 local government pursuant to subparagraph (q)2. in the absence
1524 of a hurricane or other weather-related event, upon a
1525 determination by the corporation, subject to approval by the

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1526 office, that such action would enable it to efficiently meet the
1527 financial obligations of the corporation and that such
1528 financings are reasonably necessary to effectuate the
1529 requirements of this subsection. The corporation may take all
1530 actions needed to facilitate tax-free status for such bonds or
1531 indebtedness, including formation of trusts or other affiliated
1532 entities. The corporation may pledge assessments, projected
1533 recoveries from the Florida Hurricane Catastrophe Fund, other
1534 reinsurance recoverables, policyholder surcharges and other
1535 surcharges, and other funds available to the corporation as
1536 security for bonds or other indebtedness. In recognition of s.
1537 10, Art. I of the State Constitution, prohibiting the impairment
1538 of obligations of contracts, it is the intent of the Legislature
1539 that no action be taken whose purpose is to impair any bond
1540 indenture or financing agreement or any revenue source committed
1541 by contract to such bond or other indebtedness.

1542 4. Must require that the corporation operate subject to
1543 the supervision and approval of a board of governors consisting
1544 of nine individuals who are residents of this state and who are
1545 from different geographical areas of the state, one of whom is
1546 appointed by the Governor and serves solely to advocate on
1547 behalf of the consumer. The appointment of a consumer
1548 representative by the Governor is deemed to be within the scope
1549 of the exemption provided in s. 112.313(7) (b) and is in addition
1550 to the appointments authorized under sub-subparagraph a.

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1551 a. The Governor, the Chief Financial Officer, the
 1552 President of the Senate, and the Speaker of the House of
 1553 Representatives shall each appoint two members of the board. At
 1554 least one of the two members appointed by each appointing
 1555 officer must have demonstrated expertise in insurance and be
 1556 deemed to be within the scope of the exemption provided in s.
 1557 112.313(7)(b). The Chief Financial Officer shall designate one
 1558 of the appointees as chair. All board members serve at the
 1559 pleasure of the appointing officer. All members of the board are
 1560 subject to removal at will by the officers who appointed them.
 1561 All board members, including the chair, must be appointed to
 1562 serve for 3-year terms beginning annually on a date designated
 1563 by the plan. However, for the first term beginning on or after
 1564 July 1, 2009, each appointing officer shall appoint one member
 1565 of the board for a 2-year term and one member for a 3-year term.
 1566 A board vacancy shall be filled for the unexpired term by the
 1567 appointing officer. The Chief Financial Officer shall appoint a
 1568 technical advisory group to provide information and advice to
 1569 the board in connection with the board's duties under this
 1570 subsection. The executive director and senior managers of the
 1571 corporation shall be engaged by the board and serve at the
 1572 pleasure of the board. Any executive director appointed on or
 1573 after July 1, 2006, is subject to confirmation by the Senate.
 1574 The executive director is responsible for employing other staff
 1575 as the corporation may require, subject to review and

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1576 concurrence by the board.

1577 b. The board shall create a Market Accountability Advisory
 1578 Committee to assist the corporation in developing awareness of
 1579 its rates and its customer and agent service levels in
 1580 relationship to the voluntary market insurers writing similar
 1581 coverage.

1582 (I) The members of the advisory committee consist of the
 1583 following 11 persons, one of whom must be elected chair by the
 1584 members of the committee: four representatives, one appointed by
 1585 the Florida Association of Insurance Agents, one by the Florida
 1586 Association of Insurance and Financial Advisors, one by the
 1587 Professional Insurance Agents of Florida, and one by the Latin
 1588 American Association of Insurance Agencies; three
 1589 representatives appointed by the insurers with the three highest
 1590 voluntary market share of residential property insurance
 1591 business in the state; one representative from the Office of
 1592 Insurance Regulation; one consumer appointed by the board who is
 1593 insured by the corporation at the time of appointment to the
 1594 committee; one representative appointed by the Florida
 1595 Association of Realtors; and one representative appointed by the
 1596 Florida Bankers Association. All members shall be appointed to
 1597 3-year terms and may serve for consecutive terms.

1598 (II) The committee shall report to the corporation at each
 1599 board meeting on insurance market issues which may include rates
 1600 and rate competition with the voluntary market; service,

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1601 including policy issuance, claims processing, and general
1602 responsiveness to policyholders, applicants, and agents; and
1603 matters relating to depopulation.

1604 5. Must provide a procedure for determining the
1605 eligibility of a risk for coverage, as follows:

1606 a. Subject to s. 627.3517, with respect to personal lines
1607 residential risks that are primary residences, if the risk is
1608 offered coverage from an authorized insurer at the insurer's
1609 approved rate under a standard policy including wind coverage
1610 or, if consistent with the insurer's underwriting rules as filed
1611 with the office, a basic policy including wind coverage, for a
1612 new application to the corporation for coverage, the risk is not
1613 eligible for any policy issued by the corporation unless the
1614 premium for coverage from the authorized insurer is more than 20
1615 percent greater than the premium for comparable coverage from
1616 the corporation. Whenever an offer of coverage for a personal
1617 lines residential risk that is a primary residence is received
1618 for a policyholder of the corporation at renewal from an
1619 authorized insurer, if the offer is equal to or less than the
1620 corporation's renewal premium for comparable coverage, the risk
1621 is not eligible for coverage with the corporation for policies
1622 that renew before April 1, 2023; for policies that renew on or
1623 after that date, the risk is not eligible for coverage with the
1624 corporation unless the premium for coverage from the authorized
1625 insurer is more than 20 percent greater than the corporation's

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1626 renewal premium for comparable coverage. If the risk is not able
1627 to obtain such offer, the risk is eligible for a standard policy
1628 including wind coverage or a basic policy including wind
1629 coverage issued by the corporation; however, if the risk could
1630 not be insured under a standard policy including wind coverage
1631 regardless of market conditions, the risk is eligible for a
1632 basic policy including wind coverage unless rejected under
1633 subparagraph 8. The corporation shall determine the type of
1634 policy to be provided on the basis of objective standards
1635 specified in the underwriting manual and based on generally
1636 accepted underwriting practices. A policyholder removed from the
1637 corporation through an assumption agreement does not remain
1638 eligible for coverage from the corporation after the end of the
1639 policy term. However, any policy removed from the corporation
1640 through an assumption agreement remains on the corporation's
1641 policy forms through the end of the policy term. This sub-
1642 subparagraph applies only to risks that are primary residences.

1643 (I) If the risk accepts an offer of coverage through the
1644 market assistance plan or through a mechanism established by the
1645 corporation other than a plan established by s. 627.3518, before
1646 a policy is issued to the risk by the corporation or during the
1647 first 30 days of coverage by the corporation, and the producing
1648 agent who submitted the application to the plan or to the
1649 corporation is not currently appointed by the insurer, the
1650 insurer shall:

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1651 (A) Pay to the producing agent of record of the policy for
 1652 the first year, an amount that is the greater of the insurer's
 1653 usual and customary commission for the type of policy written or
 1654 a fee equal to the usual and customary commission of the
 1655 corporation; or

1656 (B) Offer to allow the producing agent of record of the
 1657 policy to continue servicing the policy for at least 1 year and
 1658 offer to pay the agent the greater of the insurer's or the
 1659 corporation's usual and customary commission for the type of
 1660 policy written.

1661
 1662 If the producing agent is unwilling or unable to accept
 1663 appointment, the new insurer shall pay the agent in accordance
 1664 with sub-sub-sub-subparagraph (A).

1665 (II) If the corporation enters into a contractual
 1666 agreement for a take-out plan, the producing agent of record of
 1667 the corporation policy is entitled to retain any unearned
 1668 commission on the policy, and the insurer shall:

1669 (A) Pay to the producing agent of record, for the first
 1670 year, an amount that is the greater of the insurer's usual and
 1671 customary commission for the type of policy written or a fee
 1672 equal to the usual and customary commission of the corporation;
 1673 or

1674 (B) Offer to allow the producing agent of record to
 1675 continue servicing the policy for at least 1 year and offer to

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1676 pay the agent the greater of the insurer's or the corporation's
 1677 usual and customary commission for the type of policy written.

1678
 1679 If the producing agent is unwilling or unable to accept
 1680 appointment, the new insurer shall pay the agent in accordance
 1681 with sub-sub-sub-subparagraph (A).

1682 b. Subject to s. 627.3517, with respect to personal lines
 1683 residential risks that are not primary residences, if the risk
 1684 is offered coverage from an authorized insurer at the insurer's
 1685 approved rate or from an approved surplus lines insurer at the
 1686 rate approved by the office as part of such surplus lines
 1687 insurer's take-out plan for a new application to the corporation
 1688 for coverage, the risk is not eligible for any policy issued by
 1689 the corporation unless the premium for coverage from the
 1690 authorized insurer or approved surplus lines insurer is more
 1691 than 20 percent greater than the premium for comparable coverage
 1692 from the corporation. Whenever an offer of coverage for a
 1693 personal lines residential risk that is not a primary residence
 1694 is received for a policyholder of the corporation at renewal
 1695 from an authorized insurer at the insurer's approved rate or an
 1696 approved surplus lines insurer at the rate approved by the
 1697 office as part of such insurer's take-out plan, the risk is not
 1698 eligible for coverage with the corporation unless the premium
 1699 for coverage from the authorized insurer or approved surplus
 1700 lines insurer is more than 20 percent greater than the

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1701 corporation's renewal premium for comparable coverage for
1702 policies that renew on or after July 1, 2024. If the risk is not
1703 able to obtain such offer, the risk is eligible for a standard
1704 policy including wind coverage or a basic policy including wind
1705 coverage issued by the corporation. If the risk could not be
1706 insured under a standard policy including wind coverage
1707 regardless of market conditions, the risk is eligible for a
1708 basic policy including wind coverage unless rejected under
1709 subparagraph 8. The corporation shall determine the type of
1710 policy to be provided on the basis of objective standards
1711 specified in the underwriting manual and based on generally
1712 accepted underwriting practices. A policyholder removed from the
1713 corporation through an assumption agreement does not remain
1714 eligible for coverage from the corporation after the end of the
1715 policy term. However, any policy removed from the corporation
1716 through an assumption agreement remains on the corporation's
1717 policy forms through the end of the policy term.

1718 (I) If the risk accepts an offer of coverage through the
1719 market assistance plan or through a mechanism established by the
1720 corporation other than a plan established by s. 627.3518, before
1721 a policy is issued to the risk by the corporation or during the
1722 first 30 days of coverage by the corporation, and the producing
1723 agent who submitted the application to the plan or to the
1724 corporation is not currently appointed by the insurer, the
1725 insurer must:

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1726 (A) Pay to the producing agent of record of the policy,
 1727 for the first year, an amount that is the greater of the
 1728 insurer's usual and customary commission for the type of policy
 1729 written or a fee equal to the usual and customary commission of
 1730 the corporation; or

1731 (B) Offer to allow the producing agent of record of the
 1732 policy to continue servicing the policy for at least 1 year and
 1733 offer to pay the agent the greater of the insurer's or the
 1734 corporation's usual and customary commission for the type of
 1735 policy written.

1736
 1737 If the producing agent is unwilling or unable to accept
 1738 appointment, the new insurer must pay the agent in accordance
 1739 with sub-sub-sub-subparagraph (A).

1740 (II) If the corporation enters into a contractual
 1741 agreement for a take-out plan, the producing agent of record of
 1742 the corporation policy is entitled to retain any unearned
 1743 commission on the policy, and the insurer must:

1744 (A) Pay to the producing agent of record, for the first
 1745 year, an amount that is the greater of the insurer's usual and
 1746 customary commission for the type of policy written or a fee
 1747 equal to the usual and customary commission of the corporation;
 1748 or

1749 (B) Offer to allow the producing agent of record to
 1750 continue servicing the policy for at least 1 year and offer to

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1751 pay the agent the greater of the insurer's or the corporation's
1752 usual and customary commission for the type of policy written.

1753

1754 If the producing agent is unwilling or unable to accept
1755 appointment, the new insurer shall pay the agent in accordance
1756 with sub-sub-sub-subparagraph (A).

1757 ~~c.b.~~ With respect to commercial lines residential risks,
1758 for a new application to the corporation for coverage, if the
1759 risk is offered coverage under a policy including wind coverage
1760 from an authorized insurer at its approved rate, the risk is not
1761 eligible for a policy issued by the corporation unless the
1762 premium for coverage from the authorized insurer is more than 20
1763 percent greater than the premium for comparable coverage from
1764 the corporation. Whenever an offer of coverage for a commercial
1765 lines residential risk is received for a policyholder of the
1766 corporation at renewal from an authorized insurer, the risk is
1767 not eligible for coverage with the corporation unless the
1768 premium for coverage from the authorized insurer is more than 20
1769 percent greater than the corporation's renewal premium for
1770 comparable coverage. If the risk is not able to obtain any such
1771 offer, the risk is eligible for a policy including wind coverage
1772 issued by the corporation. A policyholder removed from the
1773 corporation through an assumption agreement remains eligible for
1774 coverage from the corporation until the end of the policy term.
1775 However, any policy removed from the corporation through an

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1776 assumption agreement remains on the corporation's policy forms
 1777 through the end of the policy term.

1778 (I) If the risk accepts an offer of coverage through the
 1779 market assistance plan or through a mechanism established by the
 1780 corporation other than a plan established by s. 627.3518, before
 1781 a policy is issued to the risk by the corporation or during the
 1782 first 30 days of coverage by the corporation, and the producing
 1783 agent who submitted the application to the plan or the
 1784 corporation is not currently appointed by the insurer, the
 1785 insurer shall:

1786 (A) Pay to the producing agent of record of the policy,
 1787 for the first year, an amount that is the greater of the
 1788 insurer's usual and customary commission for the type of policy
 1789 written or a fee equal to the usual and customary commission of
 1790 the corporation; or

1791 (B) Offer to allow the producing agent of record of the
 1792 policy to continue servicing the policy for at least 1 year and
 1793 offer to pay the agent the greater of the insurer's or the
 1794 corporation's usual and customary commission for the type of
 1795 policy written.

1796
 1797 If the producing agent is unwilling or unable to accept
 1798 appointment, the new insurer shall pay the agent in accordance
 1799 with sub-sub-sub-subparagraph (A).

1800 (II) If the corporation enters into a contractual

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1801 agreement for a take-out plan, the producing agent of record of
 1802 the corporation policy is entitled to retain any unearned
 1803 commission on the policy, and the insurer shall:

1804 (A) Pay to the producing agent of record, for the first
 1805 year, an amount that is the greater of the insurer's usual and
 1806 customary commission for the type of policy written or a fee
 1807 equal to the usual and customary commission of the corporation;
 1808 or

1809 (B) Offer to allow the producing agent of record to
 1810 continue servicing the policy for at least 1 year and offer to
 1811 pay the agent the greater of the insurer's or the corporation's
 1812 usual and customary commission for the type of policy written.

1813
 1814 If the producing agent is unwilling or unable to accept
 1815 appointment, the new insurer shall pay the agent in accordance
 1816 with sub-sub-sub-subparagraph (A).

1817 ~~d.e.~~ For purposes of determining comparable coverage under
 1818 sub-subparagraphs a., ~~and b.~~, and c., the comparison must be
 1819 based on those forms and coverages that are reasonably
 1820 comparable. The corporation may rely on a determination of
 1821 comparable coverage and premium made by the producing agent who
 1822 submits the application to the corporation, made in the agent's
 1823 capacity as the corporation's agent. For purposes of comparing
 1824 the premium for comparable coverage under sub-subparagraphs a.,
 1825 ~~and b.~~, and c. premium includes any surcharge or assessment that

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1826 is actually applied to such policy. A comparison may be made
1827 solely of the premium with respect to the main building or
1828 structure only on the following basis: the same Coverage A or
1829 other building limits; the same percentage hurricane deductible
1830 that applies on an annual basis or that applies to each
1831 hurricane for commercial residential property; the same
1832 percentage of ordinance and law coverage, if the same limit is
1833 offered by both the corporation and the authorized insurer or
1834 the approved surplus line insurer; the same mitigation credits,
1835 to the extent the same types of credits are offered both by the
1836 corporation and the authorized insurer or the approved surplus
1837 lines insurer; the same method for loss payment, such as
1838 replacement cost or actual cash value, if the same method is
1839 offered both by the corporation and the authorized insurer in
1840 accordance with underwriting rules; and any other form or
1841 coverage that is reasonably comparable as determined by the
1842 board. If an application is submitted to the corporation for
1843 wind-only coverage on a risk that is located in an area eligible
1844 for coverage by the Florida Windstorm Underwriting Association,
1845 as that area was defined on January 1, 2002, the premium for the
1846 corporation's wind-only policy plus the premium for the ex-wind
1847 policy that is offered by an authorized insurer to the applicant
1848 must be compared to the premium for multiperil coverage offered
1849 by an authorized insurer, subject to the standards for
1850 comparison specified in this subparagraph. If the corporation or

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1851 the applicant requests from the authorized insurer or the
 1852 approved surplus lines insurer a breakdown of the premium of the
 1853 offer by types of coverage so that a comparison may be made by
 1854 the corporation or its agent and the authorized insurer or the
 1855 approved surplus lines insurer refuses or is unable to provide
 1856 such information, the corporation may treat the offer as not
 1857 being an offer of coverage from an authorized insurer at the
 1858 insurer's approved rate.

1859 6. Must include rules for classifications of risks and
 1860 rates.

1861 7. Must provide that if premium and investment income:
 1862 ~~a.~~ for the Citizens ~~an~~ account, which are attributable to
 1863 a particular calendar year, are in excess of projected losses
 1864 and expenses for the Citizens account attributable to that year,
 1865 such excess shall be held in surplus in the Citizens account.
 1866 Such surplus must be available to defray deficits in the
 1867 Citizens ~~that~~ account as to future years and used for that
 1868 purpose before assessing assessable insurers and assessable
 1869 insureds as to any calendar year, ~~or~~

1870 ~~b. For the Citizens account, if established by the~~
 1871 ~~corporation, which are attributable to a particular calendar~~
 1872 ~~year are in excess of projected losses and expenses for the~~
 1873 ~~Citizens account attributable to that year, such excess shall be~~
 1874 ~~held in surplus in the Citizens account. Such surplus must be~~
 1875 ~~available to defray deficits in the Citizens account as to~~

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1876 ~~future years and used for that purpose before assessing~~
1877 ~~assessable insurers and assessable insureds as to any calendar~~
1878 ~~year.~~

1879 8. Must provide objective criteria and procedures to be
1880 uniformly applied to all applicants in determining whether an
1881 individual risk is so hazardous as to be uninsurable. In making
1882 this determination and in establishing the criteria and
1883 procedures, the following must be considered:

1884 a. Whether the likelihood of a loss for the individual
1885 risk is substantially higher than for other risks of the same
1886 class; and

1887 b. Whether the uncertainty associated with the individual
1888 risk is such that an appropriate premium cannot be determined.

1889
1890 The acceptance or rejection of a risk by the corporation shall
1891 be construed as the private placement of insurance, and the
1892 provisions of chapter 120 do not apply.

1893 9. Must provide that the corporation make its best efforts
1894 to procure catastrophe reinsurance at reasonable rates, to cover
1895 its projected 100-year probable maximum loss as determined by
1896 the board of governors. If catastrophe reinsurance is not
1897 available at reasonable rates, the corporation need not purchase
1898 it, but the corporation shall include the costs of reinsurance
1899 to cover its projected 100-year probable maximum loss in its
1900 rate calculations even if it does not purchase catastrophe

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1901 reinsurance.

1902 10. The policies issued by the corporation must provide
 1903 that if the corporation or the market assistance plan obtains an
 1904 offer from an authorized insurer to cover the risk at its
 1905 approved rates, the risk is no longer eligible for renewal
 1906 through the corporation, except as otherwise provided in this
 1907 subsection.

1908 11. Corporation policies and applications must include a
 1909 notice that the corporation policy could, under this section, be
 1910 replaced with a policy issued by an authorized insurer which
 1911 does not provide coverage identical to the coverage provided by
 1912 the corporation. The notice must also specify that acceptance of
 1913 corporation coverage creates a conclusive presumption that the
 1914 applicant or policyholder is aware of this potential.

1915 12. May establish, subject to approval by the office,
 1916 different eligibility requirements and operational procedures
 1917 for any line or type of coverage for any specified county or
 1918 area if the board determines that such changes are justified due
 1919 to the voluntary market being sufficiently stable and
 1920 competitive in such area or for such line or type of coverage
 1921 and that consumers who, in good faith, are unable to obtain
 1922 insurance through the voluntary market through ordinary methods
 1923 continue to have access to coverage from the corporation. If
 1924 coverage is sought in connection with a real property transfer,
 1925 the requirements and procedures may not provide an effective

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1926 | date of coverage later than the date of the closing of the
 1927 | transfer as established by the transferor, the transferee, and,
 1928 | if applicable, the lender.

1929 | 13. ~~Must provide that:~~

1930 | a. ~~With respect to the coastal account, any assessable~~
 1931 | ~~insurer with a surplus as to policyholders of \$25 million or~~
 1932 | ~~less writing 25 percent or more of its total countrywide~~
 1933 | ~~property insurance premiums in this state may petition the~~
 1934 | ~~office, within the first 90 days of each calendar year, to~~
 1935 | ~~qualify as a limited apportionment company. A regular assessment~~
 1936 | ~~levied by the corporation on a limited apportionment company for~~
 1937 | ~~a deficit incurred by the corporation for the coastal account~~
 1938 | ~~may be paid to the corporation on a monthly basis as the~~
 1939 | ~~assessments are collected by the limited apportionment company~~
 1940 | ~~from its insureds, but a limited apportionment company must~~
 1941 | ~~begin collecting the regular assessments not later than 90 days~~
 1942 | ~~after the regular assessments are levied by the corporation, and~~
 1943 | ~~the regular assessments must be paid in full within 15 months~~
 1944 | ~~after being levied by the corporation. A limited apportionment~~
 1945 | ~~company shall collect from its policyholders any emergency~~
 1946 | ~~assessment imposed under sub-subparagraph (b)3.c. The plan must~~
 1947 | ~~provide that, if the office determines that any regular~~
 1948 | ~~assessment will result in an impairment of the surplus of a~~
 1949 | ~~limited apportionment company, the office may direct that all or~~
 1950 | ~~part of such assessment be deferred as provided in subparagraph~~

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1951 ~~(q)4. However, an emergency assessment to be collected from~~
 1952 ~~policyholders under sub-subparagraph (b)3.c. may not be limited~~
 1953 ~~or deferred; or~~

1954 ~~b. With respect to the Citizens account, if established by~~
 1955 ~~the corporation pursuant to sub-subparagraph (b)2.b., any~~
 1956 ~~assessable insurer with a surplus as to policyholders of \$25~~
 1957 ~~million or less and writing 25 percent or more of its total~~
 1958 ~~countrywide property insurance premiums in this state may~~
 1959 ~~petition the office, within the first 90 days of each calendar~~
 1960 ~~year, to qualify as a limited apportionment company. A limited~~
 1961 ~~apportionment company shall collect from its policyholders any~~
 1962 ~~emergency assessment imposed under sub-subparagraph (b)5.c. An~~
 1963 ~~emergency assessment to be collected from policyholders under~~
 1964 ~~sub-subparagraph (b)5.c. may not be limited or deferred.~~

1965 14. Must provide that the corporation appoint as its
 1966 licensed agents only those agents who throughout such
 1967 appointments also hold an appointment as defined in s. 626.015
 1968 by at least three insurers ~~an insurer~~ who are ~~is~~ authorized to
 1969 write and are ~~is~~ actually writing or renewing personal lines
 1970 residential property coverage, commercial residential property
 1971 coverage, or commercial nonresidential property coverage within
 1972 the state.

1973 ~~14.15.~~ Must provide a premium payment plan option to its
 1974 policyholders which, at a minimum, allows for quarterly and
 1975 semiannual payment of premiums. A monthly payment plan may, but

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1976 | is not required to, be offered.

1977 | ~~15.16.~~ Must limit coverage on mobile homes or manufactured
1978 | homes built before 1994 to actual cash value of the dwelling
1979 | rather than replacement costs of the dwelling.

1980 | ~~16.17.~~ Must provide coverage for manufactured or mobile
1981 | home dwellings. Such coverage must also include the following
1982 | attached structures:

1983 | a. Screened enclosures that are aluminum framed or
1984 | screened enclosures that are not covered by the same or
1985 | substantially the same materials as those of the primary
1986 | dwelling;

1987 | b. Carports that are aluminum or carports that are not
1988 | covered by the same or substantially the same materials as those
1989 | of the primary dwelling; and

1990 | c. Patios that have a roof covering that is constructed of
1991 | materials that are not the same or substantially the same
1992 | materials as those of the primary dwelling.

1993 |
1994 | The corporation shall make available a policy for mobile homes
1995 | or manufactured homes for a minimum insured value of at least
1996 | \$3,000.

1997 | ~~17.18.~~ May provide such limits of coverage as the board
1998 | determines, consistent with the requirements of this subsection.

1999 | ~~18.19.~~ May require commercial property to meet specified
2000 | hurricane mitigation construction features as a condition of

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2001 eligibility for coverage.
 2002 19.20. Must provide that new or renewal policies issued by
 2003 the corporation on or after January 1, 2012, which cover
 2004 sinkhole loss do not include coverage for any loss to
 2005 appurtenant structures, driveways, sidewalks, decks, or patios
 2006 that are directly or indirectly caused by sinkhole activity. The
 2007 corporation shall exclude such coverage using a notice of
 2008 coverage change, which may be included with the policy renewal,
 2009 and not by issuance of a notice of nonrenewal of the excluded
 2010 coverage upon renewal of the current policy.

2011 20.a.21.a. ~~As of January 1, 2012, unless the Citizens~~
 2012 ~~account has been established pursuant to sub-subparagraph~~
 2013 ~~(b)2.b.,~~ Must require that the agent obtain from an applicant
 2014 for coverage from the corporation an acknowledgment signed by
 2015 the applicant, which includes, at a minimum, the following
 2016 statement:

2017
 2018 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE
 2019 AND ASSESSMENT LIABILITY:

2020
 2021 1. AS A POLICYHOLDER OF CITIZENS PROPERTY
 2022 INSURANCE CORPORATION, I UNDERSTAND THAT IF THE
 2023 CORPORATION SUSTAINS A DEFICIT AS A RESULT OF
 2024 HURRICANE LOSSES OR FOR ANY OTHER REASON, MY POLICY
 2025 COULD BE SUBJECT TO SURCHARGES AND ASSESSMENTS, WHICH

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2026 WILL BE DUE AND PAYABLE UPON RENEWAL, CANCELLATION, OR
 2027 TERMINATION OF THE POLICY, AND THAT THE SURCHARGES AND
 2028 ASSESSMENTS COULD BE AS HIGH AS 25 ~~45~~ PERCENT OF MY
 2029 PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
 2030 FLORIDA LEGISLATURE.

2031 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS
 2032 POLICYHOLDER SURCHARGE, WHICH COULD BE AS HIGH AS 15
 2033 ~~45~~ PERCENT OF MY PREMIUM, BY OBTAINING COVERAGE FROM A
 2034 PRIVATE MARKET INSURER AND THAT TO BE ELIGIBLE FOR
 2035 COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN
 2036 PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR
 2037 RENEWING COVERAGE WITH CITIZENS. I UNDERSTAND THAT
 2038 PRIVATE MARKET INSURANCE RATES ARE REGULATED AND
 2039 APPROVED BY THE STATE.

2040 3. I UNDERSTAND THAT I MAY BE SUBJECT TO
 2041 EMERGENCY ASSESSMENTS TO THE SAME EXTENT AS
 2042 POLICYHOLDERS OF OTHER INSURANCE COMPANIES, OR A
 2043 DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
 2044 LEGISLATURE.

2045 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY
 2046 INSURANCE CORPORATION IS NOT SUPPORTED BY THE FULL
 2047 FAITH AND CREDIT OF THE STATE OF FLORIDA.

2048
 2049 ~~b. The corporation must require, if it has established the~~
 2050 ~~Citizens account pursuant to sub-subparagraph (b)2.b., that the~~

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2051 ~~agent obtain from an applicant for coverage from the corporation~~
 2052 ~~the following acknowledgment signed by the applicant, which~~
 2053 ~~includes, at a minimum, the following statement:~~

2054
 2055 ~~ACKNOWLEDGMENT OF POTENTIAL SURCHARGE~~
 2056 ~~AND ASSESSMENT LIABILITY:~~

2057
 2058 ~~1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE~~
 2059 ~~CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A~~
 2060 ~~DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,~~
 2061 ~~MY POLICY COULD BE SUBJECT TO SURCHARGES AND ASSESSMENTS, WHICH~~
 2062 ~~WILL BE DUE AND PAYABLE UPON RENEWAL, CANCELLATION, OR~~
 2063 ~~TERMINATION OF THE POLICY, AND THAT THE SURCHARGES AND~~
 2064 ~~ASSESSMENTS COULD BE AS HIGH AS 25 PERCENT OF MY PREMIUM, OR A~~
 2065 ~~DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA LEGISLATURE.~~

2066 ~~2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER~~
 2067 ~~SURCHARGE, WHICH COULD BE AS HIGH AS 15 PERCENT OF MY PREMIUM,~~
 2068 ~~BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO~~
 2069 ~~BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN~~
 2070 ~~PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE~~
 2071 ~~WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES~~
 2072 ~~ARE REGULATED AND APPROVED BY THE STATE.~~

2073 ~~3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY~~
 2074 ~~ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER~~
 2075 ~~INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE~~

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2076 ~~FLORIDA LEGISLATURE.~~

2077 ~~4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE~~
 2078 ~~CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE~~
 2079 ~~STATE OF FLORIDA.~~

2080
 2081 b.e. The corporation shall maintain, in electronic format
 2082 or otherwise, a copy of the applicant's signed acknowledgment
 2083 and provide a copy of the statement to the policyholder as part
 2084 of the first renewal after the effective date of sub-
 2085 subparagraph a. ~~or sub-subparagraph b., as applicable.~~

2086 c.d. The signed acknowledgment form creates a conclusive
 2087 presumption that the policyholder understood and accepted his or
 2088 her potential surcharge and assessment liability as a
 2089 policyholder of the corporation.

2090 21. Must provide that the income of the corporation may
 2091 not inure to the benefit of any private person.

2092 (e) The corporation is subject to s. 287.057 for the
 2093 purchase of commodities and contractual services except as
 2094 otherwise provided in this paragraph. Services provided by
 2095 tradepersons or technical experts to assist a licensed adjuster
 2096 in the evaluation of individual claims are not subject to the
 2097 procurement requirements of this section. Additionally, the
 2098 procurement of financial services providers and underwriters
 2099 must be made pursuant to s. 627.3513. Contracts for goods or
 2100 services valued at or more than \$100,000 are subject to approval

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2101 | by the board.

2102 | 1. The corporation is an agency for purposes of s.
2103 | 287.057, except that, for purposes of s. 287.057(24), the
2104 | corporation is an eligible user.

2105 | a. The authority of the Department of Management Services
2106 | and the Chief Financial Officer under s. 287.057 extends to the
2107 | corporation as if the corporation were an agency.

2108 | b. The executive director of the corporation is the agency
2109 | head under s. 287.057, ~~except for resolution of bid protests for~~
2110 | ~~which the board would serve as the agency head.~~ The executive
2111 | director of the corporation may assign or appoint a designee to
2112 | act on his or her behalf.

2113 | 2. The corporation must provide notice of a decision or
2114 | intended decision concerning a solicitation, contract award, or
2115 | exceptional purchase by electronic posting. Such notice must
2116 | contain the following statement: "Failure to file a protest
2117 | within the time prescribed in this section constitutes a waiver
2118 | of proceedings."

2119 | a. A person adversely affected by the corporation's
2120 | decision or intended decision to award a contract pursuant to s.
2121 | 287.057(1) or (3)(c) who elects to challenge the decision must
2122 | file a written notice of protest with the executive director of
2123 | the corporation within 72 hours after the corporation posts a
2124 | notice of its decision or intended decision. For a protest of
2125 | the terms, conditions, and specifications contained in a

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2126 solicitation, including provisions governing the methods for
 2127 ranking bids, proposals, replies, awarding contracts, reserving
 2128 rights of further negotiation, or modifying or amending any
 2129 contract, the notice of protest must be filed in writing within
 2130 72 hours after posting the solicitation. Saturdays, Sundays, and
 2131 state holidays are excluded in the computation of the 72-hour
 2132 time period.

2133 b. A formal written protest must be filed within 10 days
 2134 after the date the notice of protest is filed. The formal
 2135 written protest must state with particularity the facts and law
 2136 upon which the protest is based. Upon receipt of a formal
 2137 written protest that has been timely filed, the corporation must
 2138 stop the solicitation or contract award process until the
 2139 subject of the protest is resolved by final board action unless
 2140 the executive director sets forth in writing particular facts
 2141 and circumstances that require the continuance of the
 2142 solicitation or contract award process without delay in order to
 2143 avoid an immediate and serious danger to the public health,
 2144 safety, or welfare.

2145 (I) The corporation must provide an opportunity to resolve
 2146 the protest by mutual agreement between the parties within 7
 2147 business days after receipt of the formal written protest.

2148 (II) If the subject of a protest is not resolved by mutual
 2149 agreement within 7 business days, the corporation's board must
 2150 transmit the protest to the Division of Administrative Hearings

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2151 and contract with the division to conduct a hearing to determine
 2152 the merits of the protest and to issue a recommended order. The
 2153 contract must provide for the corporation to reimburse the
 2154 division for any costs incurred by the division for court
 2155 reporters, transcript preparation, travel, facility rental, and
 2156 other customary hearing costs in the manner set forth in s.
 2157 120.65(9). The division has jurisdiction to determine the facts
 2158 and law concerning the protest and to issue a recommended order.
 2159 The division's rules and procedures apply to these proceedings,
 2160 ~~the division's applicable bond requirements do not apply.~~ The
 2161 protest must be heard by the division at a publicly noticed
 2162 meeting in accordance with procedures established by the
 2163 division.

2164 c. In a protest of an invitation-to-bid or request-for-
 2165 proposals procurement, submissions made after the bid or
 2166 proposal opening which amend or supplement the bid or proposal
 2167 may not be considered. In protesting an invitation-to-negotiate
 2168 procurement, submissions made after the corporation announces
 2169 its intent to award a contract, reject all replies, or withdraw
 2170 the solicitation that amends or supplements the reply may not be
 2171 considered. Unless otherwise provided by law, the burden of
 2172 proof rests with the party protesting the corporation's action.
 2173 In a competitive-procurement protest, other than a rejection of
 2174 all bids, proposals, or replies, the administrative law judge
 2175 must conduct a de novo proceeding to determine whether the

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2176 corporation's proposed action is contrary to the corporation's
2177 governing statutes, the corporation's rules or policies, or the
2178 solicitation specifications. The standard of proof for the
2179 proceeding is whether the corporation's action was clearly
2180 erroneous, contrary to competition, arbitrary, or capricious. In
2181 any bid-protest proceeding contesting an intended corporation
2182 action to reject all bids, proposals, or replies, the standard
2183 of review by the board is whether the corporation's intended
2184 action is illegal, arbitrary, dishonest, or fraudulent.

2185 d. Failure to file a notice of protest or failure to file
2186 a formal written protest constitutes a waiver of proceedings.

2187 3. The ~~board, acting as~~ agency head or his or her
2188 designee, shall consider the recommended order of an
2189 administrative law judge ~~in a public meeting~~ and take final
2190 action on the protest. Any further legal remedy lies with the
2191 First District Court of Appeal.

2192 (o) If coverage in ~~an account, or~~ the Citizens account ~~if~~
2193 ~~established by the corporation,~~ is deactivated pursuant to
2194 paragraph (p), coverage through the corporation shall be
2195 reactivated by order of the office only under one of the
2196 following circumstances:

2197 1. If the market assistance plan receives a minimum of 100
2198 applications for coverage within a 3-month period, or 200
2199 applications for coverage within a 1-year period or less for
2200 residential coverage, unless the market assistance plan provides

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2201 a quotation from authorized ~~admitted~~ carriers at their approved
 2202 ~~filed~~ rates for at least 90 percent of such applicants. Any
 2203 market assistance plan application that is rejected because an
 2204 individual risk is so hazardous as to be uninsurable using the
 2205 criteria specified in subparagraph (c)8. may ~~shall~~ not be
 2206 included in the minimum percentage calculation provided herein.
 2207 In the event that there is a legal or administrative challenge
 2208 to a determination by the office that the conditions of this
 2209 subparagraph have been met for eligibility for coverage in the
 2210 corporation, any eligible risk may obtain coverage during the
 2211 pendency of such challenge.

2212 2. In response to a state of emergency declared by the
 2213 Governor under s. 252.36, the office may activate coverage by
 2214 order for the period of the emergency upon a finding by the
 2215 office that the emergency significantly affects the availability
 2216 of residential property insurance.

2217 (p)1. The corporation shall file with the office quarterly
 2218 statements of financial condition, an annual statement of
 2219 financial condition, and audited financial statements in the
 2220 manner prescribed by law. In addition, the corporation shall
 2221 report to the office monthly on the types, premium, exposure,
 2222 and distribution by county of its policies in force, and shall
 2223 submit other reports as the office requires to carry out its
 2224 oversight of the corporation.

2225 2. The activities of the corporation shall be reviewed at

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2226 | least annually by the office to determine whether coverage shall
 2227 | be deactivated in ~~an account, or in~~ the Citizens account ~~if~~
 2228 | ~~established by the corporation,~~ on the basis that the conditions
 2229 | giving rise to its activation no longer exist.

2230 | (q)1. The corporation shall certify to the office its
 2231 | needs for annual assessments as to a particular calendar year,
 2232 | and for any interim assessments that it deems to be necessary to
 2233 | sustain operations as to a particular year pending the receipt
 2234 | of annual assessments. Upon verification, the office shall
 2235 | approve such certification, and the corporation shall levy such
 2236 | annual or interim assessments. Such assessments shall be
 2237 | prorated, if authority to levy exists, as provided in paragraph
 2238 | (b). The corporation shall take all reasonable and prudent steps
 2239 | necessary to collect the amount of assessments due from each
 2240 | assessable insurer, including, if prudent, filing suit to
 2241 | collect the assessments, and the office may provide such
 2242 | assistance to the corporation it deems appropriate. If the
 2243 | corporation is unable to collect an assessment from any
 2244 | assessable insurer, the uncollected assessments shall be levied
 2245 | as an additional assessment against the assessable insurers and
 2246 | any assessable insurer required to pay an additional assessment
 2247 | as a result of such failure to pay shall have a cause of action
 2248 | against such nonpaying assessable insurer. Assessments shall be
 2249 | included as an appropriate factor in the making of rates. The
 2250 | failure of a surplus lines agent to collect and remit any

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2251 regular or emergency assessment levied by the corporation is
 2252 considered to be a violation of s. 626.936 and subjects the
 2253 surplus lines agent to the penalties provided in that section.

2254 2. The governing body of any unit of local government, any
 2255 residents of which are insured by the corporation, may issue
 2256 bonds as defined in s. 125.013 or s. 166.101 from time to time
 2257 to fund an assistance program, in conjunction with the
 2258 corporation, for the purpose of defraying deficits of the
 2259 corporation. In order to avoid needless and indiscriminate
 2260 proliferation, duplication, and fragmentation of such assistance
 2261 programs, any unit of local government, any residents of which
 2262 are insured by the corporation, may provide for the payment of
 2263 losses, regardless of whether or not the losses occurred within
 2264 or outside of the territorial jurisdiction of the local
 2265 government. Revenue bonds under this subparagraph may not be
 2266 issued until validated pursuant to chapter 75, unless a state of
 2267 emergency is declared by executive order or proclamation of the
 2268 Governor pursuant to s. 252.36 making such findings as are
 2269 necessary to determine that it is in the best interests of, and
 2270 necessary for, the protection of the public health, safety, and
 2271 general welfare of residents of this state and declaring it an
 2272 essential public purpose to permit certain municipalities or
 2273 counties to issue such bonds as will permit relief to claimants
 2274 and policyholders of the corporation. Any such unit of local
 2275 government may enter into such contracts with the corporation

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2276 and with any other entity created pursuant to this subsection as
 2277 are necessary to carry out this paragraph. Any bonds issued
 2278 under this subparagraph shall be payable from and secured by
 2279 moneys received by the corporation from emergency assessments
 2280 under sub-subparagraph (b)3.c. ~~(b)3.e.~~, and assigned and pledged
 2281 to or on behalf of the unit of local government for the benefit
 2282 of the holders of such bonds. The funds, credit, property, and
 2283 taxing power of the state or of the unit of local government may
 2284 ~~shall~~ not be pledged for the payment of such bonds.

2285 3.a. The corporation shall adopt one or more programs
 2286 subject to approval by the office for the reduction of both new
 2287 and renewal writings in the corporation. Beginning January 1,
 2288 2008, any program the corporation adopts for the payment of
 2289 bonuses to an insurer for each risk the insurer removes from the
 2290 corporation shall comply with s. 627.3511(2) and may not exceed
 2291 the amount referenced in s. 627.3511(2) for each risk removed.
 2292 The corporation may consider any prudent and not unfairly
 2293 discriminatory approach to reducing corporation writings, and
 2294 may adopt a credit against assessment liability or other
 2295 liability that provides an incentive for insurers to take risks
 2296 out of the corporation and to keep risks out of the corporation
 2297 by maintaining or increasing voluntary writings in counties or
 2298 areas in which corporation risks are highly concentrated and a
 2299 program to provide a formula under which an insurer voluntarily
 2300 taking risks out of the corporation by maintaining or increasing

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2301 voluntary writings will be relieved wholly or partially from
 2302 assessments ~~under sub-subparagraph (b)3.a.~~ However, any "take-
 2303 out bonus" or payment to an insurer must be conditioned on the
 2304 property being insured for at least 5 years by the insurer,
 2305 unless canceled or nonrenewed by the policyholder. If the policy
 2306 is canceled or nonrenewed by the policyholder before the end of
 2307 the 5-year period, the amount of the take-out bonus must be
 2308 prorated for the time period the policy was insured. When the
 2309 corporation enters into a contractual agreement for a take-out
 2310 plan, the producing agent of record of the corporation policy is
 2311 entitled to retain any unearned commission on such policy, and
 2312 the insurer shall either:

2313 (I) Pay to the producing agent of record of the policy,
 2314 for the first year, an amount which is the greater of the
 2315 insurer's usual and customary commission for the type of policy
 2316 written or a policy fee equal to the usual and customary
 2317 commission of the corporation; or

2318 (II) Offer to allow the producing agent of record of the
 2319 policy to continue servicing the policy for a period of not less
 2320 than 1 year and offer to pay the agent the insurer's usual and
 2321 customary commission for the type of policy written. If the
 2322 producing agent is unwilling or unable to accept appointment by
 2323 the new insurer, the new insurer shall pay the agent in
 2324 accordance with sub-sub-subparagraph (I).

2325 b. Any credit or exemption from regular assessments

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2326 adopted under this subparagraph shall last no longer than the 3
 2327 years following the cancellation or expiration of the policy by
 2328 the corporation. With the approval of the office, the board may
 2329 extend such credits for an additional year if the insurer
 2330 guarantees an additional year of renewability for all policies
 2331 removed from the corporation, or for 2 additional years if the
 2332 insurer guarantees 2 additional years of renewability for all
 2333 policies so removed.

2334 c. There shall be no credit, limitation, exemption, or
 2335 deferment from emergency assessments to be collected from
 2336 policyholders pursuant to sub-subparagraph (b)3.c. ~~sub-~~
 2337 ~~subparagraph (b)3.e. or sub-subparagraph (b)5.c.~~

2338 4. ~~The plan shall provide for the deferment, in whole or~~
 2339 ~~in part, of the assessment of an assessable insurer, other than~~
 2340 ~~an emergency assessment collected from policyholders pursuant to~~
 2341 ~~sub-subparagraph (b)3.e. or sub-subparagraph (b)5.c., if the~~
 2342 ~~office finds that payment of the assessment would endanger or~~
 2343 ~~impair the solvency of the insurer. In the event an assessment~~
 2344 ~~against an assessable insurer is deferred in whole or in part,~~
 2345 ~~the amount by which such assessment is deferred may be assessed~~
 2346 ~~against the other assessable insurers in a manner consistent~~
 2347 ~~with the basis for assessments set forth in paragraph (b).~~

2348 5. Effective July 1, 2007, in order to evaluate the costs
 2349 and benefits of approved take-out plans, if the corporation pays
 2350 a bonus or other payment to an insurer for an approved take-out

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2351 plan, it shall maintain a record of the address or such other
2352 identifying information on the property or risk removed in order
2353 to track if and when the property or risk is later insured by
2354 the corporation.

2355 ~~5.6-~~ Any policy taken out, assumed, or removed from the
2356 corporation is, as of the effective date of the take-out,
2357 assumption, or removal, direct insurance issued by the insurer
2358 and not by the corporation, even if the corporation continues to
2359 service the policies. This subparagraph applies to policies of
2360 the corporation and not policies taken out, assumed, or removed
2361 from any other entity.

2362 ~~6.7-~~ For a policy taken out, assumed, or removed from the
2363 corporation, the insurer may, for a period of no more than 3
2364 years, continue to use any of the corporation's policy forms or
2365 endorsements that apply to the policy taken out, removed, or
2366 assumed without obtaining approval from the office for use of
2367 such policy form or endorsement.

2368 (v)1. Effective July 1, 2002, policies of the Residential
2369 Property and Casualty Joint Underwriting Association become
2370 policies of the corporation. All obligations, rights, assets and
2371 liabilities of the association, including bonds, note and debt
2372 obligations, and the financing documents pertaining to them
2373 become those of the corporation as of July 1, 2002. The
2374 corporation is not required to issue endorsements or
2375 certificates of assumption to insureds during the remaining term

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2376 | of in-force transferred policies.

2377 | 2. Effective July 1, 2002, policies of the Florida
 2378 | Windstorm Underwriting Association are transferred to the
 2379 | corporation and become policies of the corporation. All
 2380 | obligations, rights, assets, and liabilities of the association,
 2381 | including bonds, note and debt obligations, and the financing
 2382 | documents pertaining to them are transferred to and assumed by
 2383 | the corporation on July 1, 2002. The corporation is not required
 2384 | to issue endorsements or certificates of assumption to insureds
 2385 | during the remaining term of in-force transferred policies.

2386 | 3. The Florida Windstorm Underwriting Association and the
 2387 | Residential Property and Casualty Joint Underwriting Association
 2388 | shall take all actions necessary to further evidence the
 2389 | transfers and provide the documents and instruments of further
 2390 | assurance as may reasonably be requested by the corporation for
 2391 | that purpose. The corporation shall execute assumptions and
 2392 | instruments as the trustees or other parties to the financing
 2393 | documents of the Florida Windstorm Underwriting Association or
 2394 | the Residential Property and Casualty Joint Underwriting
 2395 | Association may reasonably request to further evidence the
 2396 | transfers and assumptions, which transfers and assumptions,
 2397 | however, are effective on the date provided under this paragraph
 2398 | whether or not, and regardless of the date on which, the
 2399 | assumptions or instruments are executed by the corporation.
 2400 | ~~Subject to the relevant financing documents pertaining to their~~

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2401 ~~outstanding bonds, notes, indebtedness, or other financing~~
 2402 ~~obligations, the moneys, investments, receivables, choses in~~
 2403 ~~action, and other intangibles of the Florida Windstorm~~
 2404 ~~Underwriting Association shall be credited to the coastal~~
 2405 ~~account of the corporation, and those of the personal lines~~
 2406 ~~residential coverage account and the commercial lines~~
 2407 ~~residential coverage account of the Residential Property and~~
 2408 ~~Casualty Joint Underwriting Association shall be credited to the~~
 2409 ~~personal lines account and the commercial lines account,~~
 2410 ~~respectively, of the corporation.~~

2411 4. Effective July 1, 2002, a new applicant for property
 2412 insurance coverage who would otherwise have been eligible for
 2413 coverage in the Florida Windstorm Underwriting Association is
 2414 eligible for coverage from the corporation as provided in this
 2415 subsection.

2416 5. The transfer of all policies, obligations, rights,
 2417 assets, and liabilities from the Florida Windstorm Underwriting
 2418 Association to the corporation and the renaming of the
 2419 Residential Property and Casualty Joint Underwriting Association
 2420 as the corporation does not affect the coverage with respect to
 2421 covered policies as defined in s. 215.555(2)(c) provided to
 2422 these entities by the Florida Hurricane Catastrophe Fund. ~~The~~
 2423 ~~coverage provided by the fund to the Florida Windstorm~~
 2424 ~~Underwriting Association based on its exposures as of June 30,~~
 2425 ~~2002, and each June 30 thereafter, unless the corporation has~~

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2426 ~~established the Citizens account, shall be redesignated as~~
 2427 ~~coverage for the coastal account of the corporation.~~
 2428 ~~Notwithstanding any other provision of law, the coverage~~
 2429 ~~provided by the fund to the Residential Property and Casualty~~
 2430 ~~Joint Underwriting Association based on its exposures as of June~~
 2431 ~~30, 2002, and each June 30 thereafter, unless the corporation~~
 2432 ~~has established the Citizens account, shall be transferred to~~
 2433 ~~the personal lines account and the commercial lines account of~~
 2434 ~~the corporation. Notwithstanding any other provision of law, the~~
 2435 ~~coastal account, unless the corporation has established the~~
 2436 ~~Citizens account, shall be treated, for all Florida Hurricane~~
 2437 ~~Catastrophe Fund purposes, as if it were a separate~~
 2438 ~~participating insurer with its own exposures, reimbursement~~
 2439 ~~premium, and loss reimbursement. Likewise, the personal lines~~
 2440 ~~and commercial lines accounts, unless the corporation has~~
 2441 ~~established the Citizens account, shall be viewed together, for~~
 2442 ~~all fund purposes, as if the two accounts were one and represent~~
 2443 ~~a single, separate participating insurer with its own exposures,~~
 2444 ~~reimbursement premium, and loss reimbursement. The coverage~~
 2445 ~~provided by the fund to the corporation shall constitute and~~
 2446 ~~operate as a full transfer of coverage from the Florida~~
 2447 ~~Windstorm Underwriting Association and Residential Property and~~
 2448 ~~Casualty Joint Underwriting Association to the corporation.~~
 2449 (w) Notwithstanding any other provision of law:
 2450 1. The pledge or sale of, the lien upon, and the security

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2451 interest in any rights, revenues, or other assets of the
2452 corporation created or purported to be created pursuant to any
2453 financing documents to secure any bonds or other indebtedness of
2454 the corporation shall be and remain valid and enforceable,
2455 notwithstanding the commencement of and during the continuation
2456 of, and after, any rehabilitation, insolvency, liquidation,
2457 bankruptcy, receivership, conservatorship, reorganization, or
2458 similar proceeding against the corporation under the laws of
2459 this state.

2460 2. The proceeding does not relieve the corporation of its
2461 obligation, or otherwise affect its ability to perform its
2462 obligation, to continue to collect, or levy and collect,
2463 assessments, policyholder surcharges or other surcharges ~~under~~
2464 ~~sub-subparagraph (b) 3. j.~~, or any other rights, revenues, or
2465 other assets of the corporation pledged pursuant to any
2466 financing documents.

2467 3. Each such pledge or sale of, lien upon, and security
2468 interest in, including the priority of such pledge, lien, or
2469 security interest, any such assessments, policyholder surcharges
2470 or other surcharges, or other rights, revenues, or other assets
2471 which are collected, or levied and collected, after the
2472 commencement of and during the pendency of, or after, any such
2473 proceeding shall continue unaffected by such proceeding. As used
2474 in this subsection, the term "financing documents" means any
2475 agreement or agreements, instrument or instruments, or other

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2476 document or documents now existing or hereafter created
 2477 evidencing any bonds or other indebtedness of the corporation or
 2478 pursuant to which any such bonds or other indebtedness has been
 2479 or may be issued and pursuant to which any rights, revenues, or
 2480 other assets of the corporation are pledged or sold to secure
 2481 the repayment of such bonds or indebtedness, together with the
 2482 payment of interest on such bonds or such indebtedness, or the
 2483 payment of any other obligation or financial product, as defined
 2484 in the plan of operation of the corporation related to such
 2485 bonds or indebtedness.

2486 4. Any such pledge or sale of assessments, revenues,
 2487 contract rights, or other rights or assets of the corporation
 2488 shall constitute a lien and security interest, or sale, as the
 2489 case may be, that is immediately effective and attaches to such
 2490 assessments, revenues, or contract rights or other rights or
 2491 assets, whether or not imposed or collected at the time the
 2492 pledge or sale is made. Any such pledge or sale is effective,
 2493 valid, binding, and enforceable against the corporation or other
 2494 entity making such pledge or sale, and valid and binding against
 2495 and superior to any competing claims or obligations owed to any
 2496 other person or entity, including policyholders in this state,
 2497 asserting rights in any such assessments, revenues, or contract
 2498 rights or other rights or assets to the extent set forth in and
 2499 in accordance with the terms of the pledge or sale contained in
 2500 the applicable financing documents, whether or not any such

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2501 person or entity has notice of such pledge or sale and without
2502 the need for any physical delivery, recordation, filing, or
2503 other action.

2504 5. As long as the corporation has any bonds outstanding,
2505 the corporation may not file a voluntary petition under chapter
2506 9 of the federal Bankruptcy Code or such corresponding chapter
2507 or sections as may be in effect, from time to time, and a public
2508 officer or any organization, entity, or other person may not
2509 authorize the corporation to be or become a debtor under chapter
2510 9 of the federal Bankruptcy Code or such corresponding chapter
2511 or sections as may be in effect, from time to time, during any
2512 such period.

2513 6. If ordered by a court of competent jurisdiction, the
2514 corporation may assume policies or otherwise provide coverage
2515 for policyholders of an insurer placed in liquidation under
2516 chapter 631, under such forms, rates, terms, and conditions as
2517 the corporation deems appropriate, subject to approval by the
2518 office.

2519 (x)1. The following records of the corporation are
2520 confidential and exempt from the provisions of s. 119.07(1) and
2521 s. 24(a), Art. I of the State Constitution:

2522 a. Underwriting files, except that a policyholder or an
2523 applicant shall have access to his or her own underwriting
2524 files. Confidential and exempt underwriting file records may
2525 also be released to other governmental agencies upon written

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2526 request and demonstration of need; such records held by the
2527 receiving agency remain confidential and exempt as provided
2528 herein.

2529 b. Claims files, until termination of all litigation and
2530 settlement of all claims arising out of the same incident,
2531 although portions of the claims files may remain exempt, as
2532 otherwise provided by law. Confidential and exempt claims file
2533 records may be released to other governmental agencies upon
2534 written request and demonstration of need; such records held by
2535 the receiving agency remain confidential and exempt as provided
2536 herein.

2537 c. Records obtained or generated by an internal auditor
2538 pursuant to a routine audit, until the audit is completed, or if
2539 the audit is conducted as part of an investigation, until the
2540 investigation is closed or ceases to be active. An investigation
2541 is considered "active" while the investigation is being
2542 conducted with a reasonable, good faith belief that it could
2543 lead to the filing of administrative, civil, or criminal
2544 proceedings.

2545 d. Matters reasonably encompassed in privileged attorney-
2546 client communications.

2547 e. Proprietary information licensed to the corporation
2548 under contract and the contract provides for the confidentiality
2549 of such proprietary information.

2550 f. All information relating to the medical condition or

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2551 medical status of a corporation employee which is not relevant
2552 to the employee's capacity to perform his or her duties, except
2553 as otherwise provided in this paragraph. Information that is
2554 exempt shall include, but is not limited to, information
2555 relating to workers' compensation, insurance benefits, and
2556 retirement or disability benefits.

2557 g. Upon an employee's entrance into the employee
2558 assistance program, a program to assist any employee who has a
2559 behavioral or medical disorder, substance abuse problem, or
2560 emotional difficulty that affects the employee's job
2561 performance, all records relative to that participation shall be
2562 confidential and exempt from the provisions of s. 119.07(1) and
2563 s. 24(a), Art. I of the State Constitution, except as otherwise
2564 provided in s. 112.0455(11).

2565 h. Information relating to negotiations for financing,
2566 reinsurance, depopulation, or contractual services, until the
2567 conclusion of the negotiations.

2568 i. Minutes of closed meetings regarding underwriting
2569 files, and minutes of closed meetings regarding an open claims
2570 file until termination of all litigation and settlement of all
2571 claims with regard to that claim, except that information
2572 otherwise confidential or exempt by law shall be redacted.

2573 2. If an authorized insurer is considering underwriting a
2574 risk insured by the corporation, relevant underwriting files and
2575 confidential claims files may be released to the insurer

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2576 | provided the insurer agrees in writing, notarized and under
2577 | oath, to maintain the confidentiality of such files. If a file
2578 | is transferred to an insurer, that file is no longer a public
2579 | record because it is not held by an agency subject to the
2580 | provisions of the public records law. Underwriting files and
2581 | confidential claims files may also be released to staff and the
2582 | board of governors of the market assistance plan established
2583 | pursuant to s. 627.3515, who must retain the confidentiality of
2584 | such files, except such files may be released to authorized
2585 | insurers that are considering assuming the risks to which the
2586 | files apply, provided the insurer agrees in writing, notarized
2587 | and under oath, to maintain the confidentiality of such files.
2588 | Finally, the corporation or the board or staff of the market
2589 | assistance plan may make the following information obtained from
2590 | underwriting files and confidential claims files available to an
2591 | entity that has obtained a permit to become an authorized
2592 | insurer, a reinsurer that may provide reinsurance under s.
2593 | 624.610, a licensed reinsurance broker, a licensed rating
2594 | organization, a modeling company, a licensed surplus lines
2595 | agent, or a licensed general lines insurance agent: name,
2596 | address, and telephone number of the residential property owner
2597 | or insured; location of the risk; rating information; loss
2598 | history; and policy type. The receiving person must retain the
2599 | confidentiality of the information received and may use the
2600 | information only for the purposes of developing a take-out plan

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2601 or a rating plan to be submitted to the office for approval or
2602 otherwise analyzing the underwriting of a risk or risks insured
2603 by the corporation on behalf of the private insurance market. A
2604 licensed surplus lines agent or licensed general lines insurance
2605 agent may not use such information for the direct solicitation
2606 of policyholders.

2607 3. A policyholder who has filed suit against the
2608 corporation has the right to discover the contents of his or her
2609 own claims file to the same extent that discovery of such
2610 contents would be available from a private insurer in litigation
2611 as provided by the Florida Rules of Civil Procedure, the Florida
2612 Evidence Code, and other applicable law. Pursuant to subpoena, a
2613 third party has the right to discover the contents of an
2614 insured's or applicant's underwriting or claims file to the same
2615 extent that discovery of such contents would be available from a
2616 private insurer by subpoena as provided by the Florida Rules of
2617 Civil Procedure, the Florida Evidence Code, and other applicable
2618 law, and subject to any confidentiality protections requested by
2619 the corporation and agreed to by the seeking party or ordered by
2620 the court. The corporation may release confidential underwriting
2621 and claims file contents and information as it deems necessary
2622 and appropriate to underwrite or service insurance policies and
2623 claims, subject to any confidentiality protections deemed
2624 necessary and appropriate by the corporation.

2625 4. Portions of meetings of the corporation are exempt from

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2626 | the provisions of s. 286.011 and s. 24(b), Art. I of the State
2627 | Constitution wherein confidential underwriting files or
2628 | confidential open claims files are discussed. All portions of
2629 | corporation meetings which are closed to the public shall be
2630 | recorded by a court reporter. The court reporter shall record
2631 | the times of commencement and termination of the meeting, all
2632 | discussion and proceedings, the names of all persons present at
2633 | any time, and the names of all persons speaking. No portion of
2634 | any closed meeting shall be off the record. Subject to the
2635 | provisions hereof and s. 119.07(1)(d)-(f), the court reporter's
2636 | notes of any closed meeting shall be retained by the corporation
2637 | for a minimum of 5 years. A copy of the transcript, less any
2638 | exempt matters, of any closed meeting wherein claims are
2639 | discussed shall become public as to individual claims after
2640 | settlement of the claim.

2641 | (z) In enacting the provisions of this section, the
2642 | Legislature recognizes that both the Florida Windstorm
2643 | Underwriting Association and the Residential Property and
2644 | Casualty Joint Underwriting Association have entered into
2645 | financing arrangements that obligate each entity to service its
2646 | debts and maintain the capacity to repay funds secured under
2647 | these financing arrangements. It is the intent of the
2648 | Legislature that nothing in this section be construed to
2649 | compromise, diminish, or interfere with the rights of creditors
2650 | under such financing arrangements. It is further the intent of

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2651 the Legislature to preserve the obligations of the Florida
 2652 Windstorm Underwriting Association and Residential Property and
 2653 Casualty Joint Underwriting Association with regard to
 2654 outstanding financing arrangements, with such obligations
 2655 passing entirely and unchanged to the corporation and,
 2656 specifically, to the Citizens ~~applicable~~ account ~~of the~~
 2657 ~~corporation~~. So long as any bonds, notes, indebtedness, or other
 2658 financing obligations of the Florida Windstorm Underwriting
 2659 Association or the Residential Property and Casualty Joint
 2660 Underwriting Association are outstanding, under the terms of the
 2661 financing documents pertaining to them, the governing board of
 2662 the corporation shall have and shall exercise the authority to
 2663 levy, charge, collect, and receive all premiums, assessments,
 2664 surcharges, charges, revenues, and receipts that the
 2665 associations had authority to levy, charge, collect, or receive
 2666 under the provisions of subsection (2) and this subsection,
 2667 respectively, as they existed on January 1, 2002, to provide
 2668 moneys, without exercise of the authority provided by this
 2669 subsection, in at least the amounts, and by the times, as would
 2670 be provided under those former provisions of subsection (2) or
 2671 this subsection, respectively, so that the value, amount, and
 2672 collectability of any assets, revenues, or revenue source
 2673 pledged or committed to, or any lien thereon securing such
 2674 outstanding bonds, notes, indebtedness, or other financing
 2675 obligations will not be diminished, impaired, or adversely

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2676 affected by the amendments made by this act and to permit
 2677 compliance with all provisions of financing documents pertaining
 2678 to such bonds, notes, indebtedness, or other financing
 2679 obligations, or the security or credit enhancement for them, and
 2680 any reference in this subsection to bonds, notes, indebtedness,
 2681 financing obligations, or similar obligations, of the
 2682 corporation shall include like instruments or contracts of the
 2683 Florida Windstorm Underwriting Association and the Residential
 2684 Property and Casualty Joint Underwriting Association to the
 2685 extent not inconsistent with the provisions of the financing
 2686 documents pertaining to them.

2687 (ii) The corporation shall revise the programs adopted
 2688 pursuant to sub-subparagraph (q)3.a. for personal lines
 2689 residential policies to maximize policyholder options and
 2690 encourage increased participation by insurers and agents. After
 2691 January 1, 2017, a policy may not be taken out of the
 2692 corporation unless the provisions of this paragraph are met.

2693 1. The corporation must publish a periodic schedule of
 2694 cycles during which an insurer may identify, and notify the
 2695 corporation of, policies that the insurer is requesting to take
 2696 out. A request must include a description of the coverage
 2697 offered and an estimated premium and must be submitted to the
 2698 corporation in a form and manner prescribed by the corporation.

2699 2. The corporation must maintain and make available to the
 2700 agent of record a consolidated list of all insurers requesting

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2701 to take out a policy. The list must include a description of the
2702 coverage offered and the estimated premium for each take-out
2703 request.

2704 3. If a policyholder receives a take-out offer from an
2705 authorized insurer, the risk is no longer eligible for coverage
2706 with the corporation unless the premium for coverage from the
2707 authorized insurer is more than 20 percent greater than the
2708 renewal premium for comparable coverage from the corporation
2709 pursuant to sub-subparagraph (c) 5.d. ~~(e) 5.e.~~ This subparagraph
2710 applies to take-out offers that are part of an application to
2711 participate in depopulation submitted to the office on or after
2712 January 1, 2023. This subparagraph only applies to a policy that
2713 covers a primary residence.

2714 4. The corporation must provide written notice to the
2715 policyholder and the agent of record regarding all insurers
2716 requesting to take out the policy. The notice must be in a
2717 format prescribed by the corporation and include, for each take-
2718 out offer:

2719 a. The amount of the estimated premium;
2720 b. A description of the coverage; and
2721 c. A comparison of the estimated premium and coverage
2722 offered by the insurer to the estimated premium and coverage
2723 provided by the corporation.

2724 (nn) The corporation may share its claims data with the
2725 National Insurance Crime Bureau, provided that the National

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2726 Insurance Crime Bureau agrees to maintain the confidentiality of
2727 such documents as otherwise provided for in paragraph (x).

2728 (7) TRADEMARKS, COPYRIGHTS, OR PATENTS.—Notwithstanding
2729 any other law, the corporation is authorized, in its own name,
2730 to:

2731 (a) Perform all things necessary to secure letters of
2732 patent, copyrights, or trademarks on any work products and
2733 enforce its rights therein.

2734 (b) License, lease, assign, or otherwise give written
2735 consent to any person, firm, or corporation for the manufacture
2736 or use thereof, on a royalty basis or for such other
2737 consideration as the corporation deems proper.

2738 (c) Take any action necessary, including legal action, to
2739 protect trademarks, copyrights, or patents against improper or
2740 unlawful use or infringement.

2741 (d) Enforce the collection of any sums due the corporation
2742 for the manufacture or use thereof by any other party.

2743 (e) Sell any of its trademarks, copyrights, or patents and
2744 execute all instruments necessary to consummate any such sale.

2745 (f) Do all other acts necessary and proper for the
2746 execution of powers and duties herein conferred upon the
2747 corporation in order to administer this subsection.

2748 Section 3. Subsection (3) and paragraphs (d), (e), and (f)
2749 of subsection (6) of section 627.3511, Florida Statutes, are
2750 amended to read:

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2751 627.3511 Depopulation of Citizens Property Insurance
2752 Corporation.—

2753 (3) EXEMPTION FROM DEFICIT ASSESSMENTS.—

2754 ~~(a) The calculation of an insurer's assessment liability~~
2755 ~~under s. 627.351(6) (b) 3.a. shall, for an insurer that in any~~
2756 ~~calendar year removes 50,000 or more risks from the Citizens~~
2757 ~~Property Insurance Corporation, either by issuance of a policy~~
2758 ~~upon expiration or cancellation of the corporation policy or by~~
2759 ~~assumption of the corporation's obligations with respect to in-~~
2760 ~~force policies, exclude such removed policies for the succeeding~~
2761 ~~3 years, as follows:~~

2762 ~~1. In the first year following removal of the risks, the~~
2763 ~~risks are excluded from the calculation to the extent of 100~~
2764 ~~percent.~~

2765 ~~2. In the second year following removal of the risks, the~~
2766 ~~risks are excluded from the calculation to the extent of 75~~
2767 ~~percent.~~

2768 ~~3. In the third year following removal of the risks, the~~
2769 ~~risks are excluded from the calculation to the extent of 50~~
2770 ~~percent.~~

2771
2772 ~~If the removal of risks is accomplished through assumption of~~
2773 ~~obligations with respect to in-force policies, the corporation~~
2774 ~~shall pay to the assuming insurer all unearned premium with~~
2775 ~~respect to such policies less any policy acquisition costs~~

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2776 | ~~agreed to by the corporation and assuming insurer. The term~~
 2777 | ~~"policy acquisition costs" is defined as costs of issuance of~~
 2778 | ~~the policy by the corporation which includes agent commissions,~~
 2779 | ~~servicing company fees, and premium tax. This paragraph does not~~
 2780 | ~~apply to an insurer that, at any time within 5 years before~~
 2781 | ~~removing the risks, had a market share in excess of 0.1 percent~~
 2782 | ~~of the statewide aggregate gross direct written premium for any~~
 2783 | ~~line of property insurance, or to an affiliate of such an~~
 2784 | ~~insurer. This paragraph does not apply unless either at least 40~~
 2785 | ~~percent of the risks removed from the corporation are located in~~
 2786 | ~~Miami-Dade, Broward, and Palm Beach Counties, or at least 30~~
 2787 | ~~percent of the risks removed from the corporation are located in~~
 2788 | ~~such counties and an additional 50 percent of the risks removed~~
 2789 | ~~from the corporation are located in other coastal counties.~~

2790 | ~~(b) An insurer that first wrote personal lines residential~~
 2791 | ~~property coverage in this state on or after July 1, 1994, is~~
 2792 | ~~exempt from regular deficit assessments imposed pursuant to s.~~
 2793 | ~~627.351(6) (b)3.a., but not emergency assessments collected from~~
 2794 | ~~policyholders pursuant to s. 627.351(6) (b)3.e., of the Citizens~~
 2795 | ~~Property Insurance Corporation until the earlier of the~~
 2796 | ~~following:~~

2797 | ~~1. The end of the calendar year in which it first wrote~~
 2798 | ~~0.5 percent or more of the statewide aggregate direct written~~
 2799 | ~~premium for any line of residential property coverage; or~~

2800 | ~~2. December 31, 1997, or December 31 of the third year in~~

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2801 ~~which it wrote such coverage in this state, whichever is later.~~

2802 ~~(c) Other than an insurer that is exempt under paragraph~~
 2803 ~~(b), an insurer that in any calendar year increases its total~~
 2804 ~~structure exposure subject to wind coverage by 25 percent or~~
 2805 ~~more over its exposure for the preceding calendar year is, with~~
 2806 ~~respect to that year, exempt from deficit assessments imposed~~
 2807 ~~pursuant to s. 627.351(6)(b)3.a., but not emergency assessments~~
 2808 ~~collected from policyholders pursuant to s. 627.351(6)(b)3.e.,~~
 2809 ~~of the Citizens Property Insurance Corporation attributable to~~
 2810 ~~such increase in exposure.~~

2811 ~~(d)~~ Any exemption or credit from regular assessments
 2812 authorized by this section shall last no longer than 3 years
 2813 following the cancellation or expiration of the policy by the
 2814 corporation. With the approval of the office, the board may
 2815 extend such credits for an additional year if the insurer
 2816 guarantees an additional year of renewability for all policies
 2817 removed from the corporation, or for 2 additional years if the
 2818 insurer guarantees 2 additional years of renewability for all
 2819 policies so removed.

2820 (6) COMMERCIAL RESIDENTIAL TAKE-OUT PLANS.—

2821 ~~(d) The calculation of an insurer's regular assessment~~
 2822 ~~liability under s. 627.351(6)(b)3.a., but not emergency~~
 2823 ~~assessments collected from policyholders pursuant to s.~~
 2824 ~~627.351(6)(b)3.e., shall, with respect to commercial residential~~
 2825 ~~policies removed from the corporation under an approved take-out~~

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2826 ~~plan, exclude such removed policies for the succeeding 3 years,~~
 2827 ~~as follows:~~

2828 ~~1. In the first year following removal of the policies,~~
 2829 ~~the policies are excluded from the calculation to the extent of~~
 2830 ~~100 percent.~~

2831 ~~2. In the second year following removal of the policies,~~
 2832 ~~the policies are excluded from the calculation to the extent of~~
 2833 ~~75 percent.~~

2834 ~~3. In the third year following removal of the policies,~~
 2835 ~~the policies are excluded from the calculation to the extent of~~
 2836 ~~50 percent.~~

2837 ~~(c) An insurer that first wrote commercial residential~~
 2838 ~~property coverage in this state on or after June 1, 1996, is~~
 2839 ~~exempt from regular assessments under s. 627.351(6)(b)3.a., but~~
 2840 ~~not emergency assessments collected from policyholders pursuant~~
 2841 ~~to s. 627.351(6)(b)3.e., with respect to commercial residential~~
 2842 ~~policies until the earlier of:~~

2843 ~~1. The end of the calendar year in which such insurer~~
 2844 ~~first wrote 0.5 percent or more of the statewide aggregate~~
 2845 ~~direct written premium for commercial residential property~~
 2846 ~~coverage; or~~

2847 ~~2. December 31 of the third year in which such insurer~~
 2848 ~~wrote commercial residential property coverage in this state.~~

2849 ~~(f) An insurer that is not otherwise exempt from regular~~
 2850 ~~assessments under s. 627.351(6)(b)3.a. with respect to~~

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2851 ~~commercial residential policies is, for any calendar year in~~
 2852 ~~which such insurer increased its total commercial residential~~
 2853 ~~hurricane exposure by 25 percent or more over its exposure for~~
 2854 ~~the preceding calendar year, exempt from regular assessments~~
 2855 ~~under s. 627.351(6)(b)3.a., but not emergency assessments~~
 2856 ~~collected from policyholders pursuant to s. 627.351(6)(b)3.e.,~~
 2857 ~~attributable to such increased exposure.~~

2858 Section 4. Subsections (5), (6), and (7) of section
 2859 627.3518, Florida Statutes, are amended to read:

2860 627.3518 Citizens Property Insurance Corporation
 2861 policyholder eligibility clearinghouse program.—The purpose of
 2862 this section is to provide a framework for the corporation to
 2863 implement a clearinghouse program by January 1, 2014.

2864 (5) Notwithstanding s. 627.3517, any applicant for new
 2865 coverage from the corporation is not eligible for coverage from
 2866 the corporation if provided an offer of coverage from an
 2867 authorized insurer through the program at a premium that is at
 2868 or below the eligibility threshold for applicants for new
 2869 coverage of a primary residence established in s.

2870 627.351(6)(c)5.a., or for applicants for new coverage of a risk
 2871 that is not a primary residence established in s.

2872 627.351(6)(c)5.b. Whenever an offer of coverage for a personal
 2873 lines risk is received for a policyholder of the corporation at
 2874 renewal from an authorized insurer through the program which is
 2875 at or below the eligibility threshold for primary residences of

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2876 | policyholders of the corporation established in s.
2877 | 627.351(6)(c)5.a., or the eligibility threshold for risks that
2878 | are not primary residences of policyholders of the corporation
2879 | established in s. 627.351(6)(c)5.b., the risk is not eligible
2880 | for coverage with the corporation. In the event an offer of
2881 | coverage for a new applicant is received from an authorized
2882 | insurer through the program, and the premium offered exceeds the
2883 | eligibility threshold for applicants for new coverage of a
2884 | primary residence established in s. 627.351(6)(c)5.a., or the
2885 | eligibility threshold for applicants for new coverage on a risk
2886 | that is not a primary residence established in s.
2887 | 627.351(6)(c)5.b., the applicant or insured may elect to accept
2888 | such coverage, or may elect to accept or continue coverage with
2889 | the corporation. In the event an offer of coverage for a
2890 | personal lines risk is received from an authorized insurer at
2891 | renewal through the program, and the premium offered exceeds the
2892 | eligibility threshold for primary residences of policyholders of
2893 | the corporation established in s. 627.351(6)(c)5.a., or exceeds
2894 | the eligibility threshold for risks that are not primary
2895 | residences of policyholders of the corporation established in s.
2896 | 627.351(6)(c)5.b., the insured may elect to accept such
2897 | coverage, or may elect to accept or continue coverage with the
2898 | corporation. Section 627.351(6)(c)5.a.(I) and b.(I) does not
2899 | apply to an offer of coverage from an authorized insurer
2900 | obtained through the program. As used in this subsection, the

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2901 term "primary residence" has the same meaning as in s.
 2902 627.351 (6) (c) 2.a.

2903 (6) Independent insurance agents submitting new
 2904 applications for coverage or that are the agent of record on a
 2905 renewal policy submitted to the program:

2906 (a) Are granted and must maintain ownership and the
 2907 exclusive use of expirations, records, or other written or
 2908 electronic information directly related to such applications or
 2909 renewals written through the corporation or through an insurer
 2910 participating in the program, notwithstanding s.

2911 627.351 (6) (c) 5.a. (I) (B) and (II) (B) or s.

2912 627.351 (6) (c) 5.b. (I) (B) and (II) (B). Such ownership is granted
 2913 for as long as the insured remains with the agency or until sold
 2914 or surrendered in writing by the agent. Contracts with the
 2915 corporation or required by the corporation must not amend,
 2916 modify, interfere with, or limit such rights of ownership. Such
 2917 expirations, records, or other written or electronic information
 2918 may be used to review an application, issue a policy, or for any
 2919 other purpose necessary for placing such business through the
 2920 program.

2921 (b) May not be required to be appointed by any insurer
 2922 participating in the program for policies written solely through
 2923 the program, notwithstanding the provisions of s. 626.112.

2924 (c) May accept an appointment from any insurer
 2925 participating in the program.

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2926 (d) May enter into either a standard or limited agency
 2927 agreement with the insurer, at the insurer's option.

2928
 2929 Applicants ineligible for coverage in accordance with subsection
 2930 (5) remain ineligible if their independent agent is unwilling or
 2931 unable to enter into a standard or limited agency agreement with
 2932 an insurer participating in the program.

2933 (7) Exclusive agents submitting new applications for
 2934 coverage or that are the agent of record on a renewal policy
 2935 submitted to the program:

2936 (a) Must maintain ownership and the exclusive use of
 2937 expirations, records, or other written or electronic information
 2938 directly related to such applications or renewals written
 2939 through the corporation or through an insurer participating in
 2940 the program, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and
 2941 (II)(B) or s. 627.351(6)(c)5.b.(I)(B) and (II)(B). Contracts
 2942 with the corporation or required by the corporation must not
 2943 amend, modify, interfere with, or limit such rights of
 2944 ownership. Such expirations, records, or other written or
 2945 electronic information may be used to review an application,
 2946 issue a policy, or for any other purpose necessary for placing
 2947 such business through the program.

2948 (b) May not be required to be appointed by any insurer
 2949 participating in the program for policies written solely through
 2950 the program, notwithstanding the provisions of s. 626.112.

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2951 (c) Must only facilitate the placement of an offer of
 2952 coverage from an insurer whose limited servicing agreement is
 2953 approved by that exclusive agent's exclusive insurer.

2954 (d) May enter into a limited servicing agreement with the
 2955 insurer making an offer of coverage, and only after the
 2956 exclusive agent's insurer has approved the limited servicing
 2957 agreement terms. The exclusive agent's insurer must approve a
 2958 limited service agreement for the program for any insurer for
 2959 which it has approved a service agreement for other purposes.

2960
 2961 Applicants ineligible for coverage in accordance with subsection
 2962 (5) remain ineligible if their exclusive agent is unwilling or
 2963 unable to enter into a standard or limited agency agreement with
 2964 an insurer making an offer of coverage to that applicant.

2965 Section 5. Except as otherwise expressly provided in this
 2966 act and except for this section, which shall take effect upon
 2967 becoming a law, this act shall take effect July 1, 2024.