

By Senator Boyd

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A bill to be entitled
An act relating to property insurance; creating s.
215.5552, F.S.; creating the Florida Optional
Reinsurance Assistance program (FORA), to be
administered by the State Board of Administration;
defining terms; authorizing eligible insurers to
purchase reinsurance coverage under FORA; requiring
the board to provide specified coverage layers;
specifying coverage limits for each option; specifying
requirements for reimbursement contracts between the
board and FORA insurers; specifying the calculation of
payout multiples and layer retentions; authorizing the
board to inspect, examine, and verify certain records;
specifying the calculation of premiums and
requirements for the payment of premiums; providing
construction relating to the claims-paying capacity of
the Florida Hurricane Catastrophe Fund; specifying
requirements and procedures if a FORA insurer becomes
insolvent; providing construction relating to
violations; authorizing the board to take legal
actions and adopt rules, including emergency rules;
providing legislative findings; specifying
requirements and procedures for the appropriation of
funds from the General Revenue Fund to provide
reimbursements; requiring the board to submit annual
reports to the Governor and the Legislature; providing
for contingent expiration; amending s. 624.1551, F.S.;
revising conditions that must be met for a claim for
extracontractual damages in a civil remedy action

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30 against a property insurer; providing construction;
31 amending s. 624.3161, F.S.; providing that property
32 insurers may be subject to an additional market
33 conduct examination by the Office of Insurance
34 Regulation after a hurricane under certain
35 circumstances; providing requirements for such
36 examination; amending s. 624.418, F.S.; adding
37 specified grounds on which the office may suspend or
38 revoke a property insurer's certificate of authority;
39 amending s. 624.424, F.S.; adding information required
40 to be reported by property insurers in their quarterly
41 supplemental reports; amending s. 626.9373, F.S.;
42 deleting a right to attorney fees for judgments or
43 decrees against surplus lines insurers in suits
44 arising under residential or commercial property
45 insurance policies; amending s. 626.9541, F.S.;
46 revising conditions for a certain unfair claim
47 settlement practice by a property insurer; amending s.
48 627.351, F.S.; authorizing Citizens Property Insurance
49 Corporation, if certain conditions are met, to
50 consolidate its three separate accounts into a single
51 Citizens account for all revenues, assets,
52 liabilities, losses, and expenses of the corporation;
53 specifying the corporation's authority, and
54 requirements for and prohibited acts by the
55 corporation, under the Citizens account; providing
56 applicability; specifying requirements and procedures
57 with respect to a deficit in the Citizens account;
58 defining terms; providing requirements for the Florida

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59 Surplus Lines Service Office; revising requirements
60 for the corporation's plan of operation; revising
61 eligibility requirements for renewing coverage with
62 the corporation for personal lines residential and
63 commercial lines residential risks; providing
64 construction; providing requirements relating to
65 certain excess premium and investment income in the
66 Citizens account; authorizing specified insurers to
67 petition the office to qualify as limited
68 apportionment companies; providing requirements for
69 such companies; specifying disclosure requirements to
70 applicants for coverage from the corporation if the
71 Citizens account is established; providing that, for
72 certain purposes, the corporation's rates for coverage
73 may not be competitive with approved rates charged in
74 the admitted voluntary market; requiring the office to
75 provide certain information to the corporation;
76 specifying annual rate increase limits for personal
77 lines policies written on or after a specified date
78 which do not cover a primary residence; defining the
79 term "primary residence"; requiring the corporation to
80 require the securing and maintenance of flood
81 insurance as a condition of personal lines residential
82 coverage; specifying requirements for such flood
83 insurance coverage; specifying deadlines by which
84 policyholders must secure and maintain flood
85 insurance; revising eligibility requirements for
86 coverage with the corporation when take-out offers are
87 received by policyholders; specifying a burden of

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proof for corporation policyholders making claims for water damage; making technical changes; conforming provisions to changes made by the act; amending s. 627.3511, F.S.; conforming cross-references; amending s. 627.3518, F.S.; deleting a provision construing the eligibility for coverage with the corporation for certain applicants; conforming a provision to changes made by the act; amending s. 627.410, F.S.; requiring the office to reexamine certain policy forms of a property insurer under certain circumstances; specifying actions the office may take; amending s. 627.428, F.S.; deleting a right to attorney fees for judgments or decrees against insurers in suits arising under residential or commercial property insurance policies; amending s. 627.7011, F.S.; revising disclosure requirements relating to flood insurance for insurers issuing homeowners' policies; amending s. 627.70131, F.S.; revising requirements for insurers relating to acknowledging communications regarding claims, investigating claims, sending estimates of losses to policyholders, recordkeeping, and paying or denying claims; authorizing insurers to use specified methods in investigating losses; authorizing insurers to void insurance policies under certain circumstances; defining the term "factors beyond the control of the insurer"; specifying circumstances under which certain requirements are tolled; providing construction; amending s. 627.70132, F.S.; revising timeframes under which notices of claims, reopened

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claims, and supplemental claims under property insurance policies must be given to insurers or be barred; amending s. 627.70152, F.S.; revising applicability; deleting the definition of the term "amount obtained"; providing that certain prelitigation notices and documentation are not admissible as evidence in any proceeding; deleting provisions relating to the calculation of attorney fees; creating s. 627.70154, F.S.; specifying conditions that must be met for a property insurance policy to require mandatory binding arbitration; amending s. 627.7074, F.S.; deleting the right to attorney fees payable by insurers in the alternative procedure for resolution of disputed sinkhole insurance claims; conforming a provision to changes made by the act; amending s. 627.7142, F.S.; conforming provisions to changes made by the act; amending s. 627.7152, F.S.; prohibiting policyholders from assigning post-loss insurance benefits under residential or commercial property insurance policies issued on or after a specified date; providing construction; amending s. 627.7154, F.S.; revising duties of the office's Property Insurer Stability Unit; amending s. 631.252, F.S.; providing that a coverage continuation period for policies of an insolvent property insurer may be extended by the office under specified circumstances; amending s. 768.79, F.S.; authorizing a property insurer in a breach of contract action to make a joint offer of

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judgment or settlement that is conditioned on the
mutual acceptance of all joint offerees; providing an
appropriation; providing effective dates.

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

Section 1. Section 215.5552, Florida Statutes, is created
to read:

215.5552 Florida Optional Reinsurance Assistance program.—

(1) CREATION OF THE FLORIDA OPTIONAL REINSURANCE ASSISTANCE
PROGRAM.—There is created the Florida Optional Reinsurance
Assistance program to be administered by the State Board of
Administration.

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

(a) "Board" means the State Board of Administration.

(b) "Contract year" has the same meaning as in s.
215.555(2)(o).

(c) "Covered event" has the same meaning as in s.
215.555(2)(b).

(d) "Covered policy" has the same meaning as in s.
215.555(2)(c).

(e) "FHCF" means the Florida Hurricane Catastrophe Fund
created under s. 215.555.

(f) "Final FORA premium" means the premium due no later
than March 1, 2024, paid by a FORA insurer after the actual 2023
FHCF premiums are calculated.

(g) "FORA" means the Florida Optional Reinsurance
Assistance program created under this section.

(h) "FORA eligible insurer" means a FHCF participating

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insurer as of November 30, 2022. New FHCF participants after that date are ineligible for FORA coverage. In addition, any joint underwriting association, risk apportionment plan, or other entity created under s. 627.351 is not considered a FORA insurer and may not obtain coverage under FORA.

(i) "FORA insurer" means a FORA eligible insurer that executes a FORA reimbursement contract pursuant to this section.

(j) "FORA layer limit" means, for the 2023-2024 contract year, a FORA insurer's maximum payout for its FORA layer.

(k) "FORA layer retention" means the amount of losses below which a FORA insurer is not entitled to reimbursement for the selected layer under FORA.

(l) "FORA payout multiple" means the factors by FHCF coverage and FORA layer that are multiplied by a FORA insurer's FHCF premium to calculate the FORA insurer's FORA layer limits.

(m) "FORA reimbursement contract" means the reimbursement contract reflecting the obligations of a FORA insurer and the board.

(n) "FORA retention multiple" means the factors by FHCF coverage and FORA layer that are multiplied by a FORA insurer's FHCF premium to calculate the FORA insurer's FORA layer retentions.

(o) "Initial FORA premium" means the premium paid by a FORA insurer by July 1, 2023, for coverage under the FORA program.

(p) "Losses" has the same meaning as in s. 215.555(2)(d).

(q) "RAP insurer" has the same meaning as in s. 215.5551(2)(h).

(r) "Unsound insurer" means a FORA insurer determined by the Office of Insurance Regulation to be in unsound condition as

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defined in s. 624.80(2) or a FORA insurer placed in receivership under chapter 631.

(3) COVERAGE.—

(a) Each FORA eligible insurer may purchase coverage under FORA. The board shall provide four optional layers below the FHCF retention prior to the third event dropdown of the FHCF retention set forth in s. 215.555(2)(e)4. Only RAP insurers required to participate in the 2022-2023 contract year may select FORA layers 1 through 3. All FORA eligible insurers may purchase FORA layer 4. If a RAP insurer required to participate in the 2022-2023 contract year chooses to purchase layer 2, 3, or 4, such layers must be purchased inclusive of the prior layer and cannot be purchased separately.

(b) FORA industry limits prior to FORA insurer selections are as follows:

1. FORA industry layer 1 limit is \$1 billion.
2. FORA industry layer 2 limit is \$1 billion.
3. FORA industry layer 3 limit is \$2 billion divided by the RAP Qualification ratio minus \$2 billion.
4. FORA industry layer 4 limit is \$1 billion minus the total FORA industry limit selected for FORA layers 1, 2, and 3, plus the total FORA premium collected for FORA layers 1, 2, and 3.

(c) The maximum aggregate coverage for all selected FORA layers is \$1 billion as provided under paragraph (11)(a) plus premiums needed to fulfill the obligations of this section.

(4) FORA REIMBURSEMENT CONTRACTS.—

(a) FORA eligible insurers selecting coverage must execute a FORA reimbursement contract with the board.

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233 (b) The board must enter into a FORA reimbursement contract
234 effective June 1, 2023, with each FORA eligible insurer electing
235 to purchase coverage. Such contract must provide coverage
236 pursuant to this section in exchange for premium paid.

237 (c) The FORA reimbursement contract must be executed by the
238 FORA insurer no later than April 15, 2023, for layers 1 through
239 3, and May 30, 2023, for layer 4.

240 (d) For the two covered events with the largest losses for
241 the FORA insurer, the FORA reimbursement contract must contain a
242 promise by the board to reimburse the FORA insurer for 100
243 percent of its losses from each covered event in excess of the
244 lowest selected FORA layer's retention. The sum of the FORA
245 insurer's covered losses from the two covered events with the
246 largest losses from each FORA layer may not exceed the FORA
247 insurer's combined selected FORA layer limit or limits.

248 (e) The FORA reimbursement contract must provide that
249 reimbursement amounts are not reduced by reinsurance paid or
250 payable to the insurer from other sources.

251 (f) The board shall calculate and report to each FORA
252 insurer the initial and final FORA payout multiples for each
253 FORA layer using the source data described in paragraph (5)(a).

254 1. For FORA layer 1, the FORA payout multiple is the
255 quotient of \$1 billion divided by the FHCF industry aggregate
256 retention multiplied by the FHCF retention multiple for the FHCF
257 coverage selected.

258 2. For FORA layer 2, the FORA payout multiple is the
259 quotient of \$1 billion divided by the FHCF industry aggregate
260 retention multiplied by the FHCF retention multiple for the FHCF
261 coverage selected.

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262 3. For FORA layer 3, the FORA payout multiple is calculated
263 as follows: the numerator is the quotient of \$2 billion divided
264 by the RAP qualification ratio as defined in s. 215.5551(2)(j)
265 minus \$2 billion. The denominator is the FHCF industry aggregate
266 retention. The FORA multiple is the FHCF retention multiple
267 multiplied by the numerator divided by the denominator.

268 4. The FORA layer 4 payout multiple is the total FORA
269 industry layer 4 limit divided by the FHCF industry aggregate
270 retention multiplied by the FHCF retention multiple for the FHCF
271 coverage selected. For FORA layer 4, the total FORA industry
272 layer limit is \$1 billion minus the total FORA industry limit
273 selected for FORA layers 1, 2, and 3, plus the total FORA
274 premium collected for FORA layers 1, 2, and 3.

275 (g) For each FORA layer, the FORA payout multiple is
276 multiplied by the FORA insurer's FHCF premium to calculate its
277 FORA maximum payout. FORA payout multiples are calculated for 45
278 percent, 75 percent, and 90 percent FHCF mandatory coverage
279 selections.

280 (h) For a FORA insurer that selects more than one layer,
281 the FORA layer limits shall be combined to a single aggregate
282 limit for the two covered events with the largest losses for the
283 FORA insurer.

284 (i) FORA layer retentions are calculated as follows:

285 1. For each FORA layer, the board shall calculate and
286 report to each FORA insurer the initial and final FORA retention
287 multiples for each FHCF coverage selection as the FHCF retention
288 multiple minus the FORA payout multiple using the source data
289 described in paragraph (5)(a). The FORA retention multiple is
290 multiplied by the FORA insurer's FHCF premium to calculate its

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FORA retention. FORA retention multiples are calculated for 45 percent, 75 percent, and 90 percent FHCF mandatory coverage selections.

2. The FORA industry retention for the 2023-2024 contract year for FORA layer 1 is the FHCF's industry retention minus \$1 billion. The FORA layer 2 industry retention is the FHCF industry retention minus \$2 billion. The FORA layer 3 industry retention is the FHCF's industry retention minus the quotient of \$2 billion divided by the RAP qualification ratio. The FORA layer 4 industry retention is the FORA layer 3 retention minus the FORA layer 4 limit.

3. A FORA insurer's initial and final FORA retentions are determined by multiplying its FHCF reimbursement premium by the FORA retention multiple for each FHCF coverage selection using the source data in paragraph (5)(a).

4. For a FORA insurer that selects more than one layer, the FORA combined layer retention shall be the lowest selected layer retention for each of the two covered events with the largest losses for the FORA insurer.

(j) To ensure that insurers have properly reported the losses for which FORA reimbursements have been made, the board may inspect, examine, and verify the records of each FORA participating insurer's covered policies at such times as the board deems appropriate for the specific purpose of validating the accuracy of losses required to be reported under the terms and conditions of the FORA reimbursement contract.

(5) FORA PREMIUMS.—

(a) Premiums shall be charged as follows:

1. Fifty percent Rate on Line multiplied by the FORA

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insurer's FORA layer 1 limit.

2. Fifty-five percent Rate on Line multiplied by the FORA insurer's FORA layer 2 limit.

3. Sixty percent Rate on Line multiplied by the FORA insurer's FORA layer 3 limit.

4. Sixty-five percent Rate on Line multiplied by the FORA insurer's FORA layer 4 limit.

(b) Initial FORA premiums shall be based on the 2023 FHCF projected industry retention, FHCF retention multiples, 2022 RAP qualification ratio, and insurers' 2022 FHCF premiums. Final FORA premiums will be adjusted after December 31, 2023, based on December 31, 2023, FHCF premiums, FHCF industry retention, the 2023 RAP qualification ratio and insurers' 2023 FHCF premiums.

(c) Failure to pay the initial FORA premium in full by July 1, 2023, shall result in disqualification as a FORA insurer. The final FORA premium will be due no later than March 1, 2024.

(6) CLAIMS-PAYING CAPACITY.—FORA shall not affect the claims-paying capacity of the FHCF as provided in s. 215.555(4)(c)1.

(7) INSOLVENCY OF FORA INSURER.—

(a) The FORA reimbursement contract must provide that in the event of an insolvency of a FORA insurer, the board shall pay reimbursements directly to the applicable state guaranty fund for the benefit of policyholders in this state of the FORA insurer.

(b) If an authorized insurer or the Citizens Property Insurance Corporation accepts an assignment of an unsound insurer's FORA reimbursement contract, the board shall apply the unsound insurer's FORA reimbursement contract to such policies

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and treat the authorized insurer or the Citizens Property Insurance Corporation as if it were the unsound insurer for the remaining term of the FORA reimbursement contract, with all rights and duties of the unsound insurer beginning on the date it provides coverage for such policies. This paragraph may not be construed to limit the board's right to receive the premium due under the Unsound insurer's FORA reimbursement contract.

(8) VIOLATIONS.—Any violation of this section or of rules adopted under this section constitutes a violation of the Florida Insurance Code.

(9) LEGAL PROCEEDINGS.—The board may take any action necessary to enforce the rules, provisions, and requirements of the FORA reimbursement contract under this section.

(10) RULEMAKING.—The board may adopt rules to implement this section. In addition, the board may adopt emergency rules pursuant to s. 120.54(4) at any time as are necessary to implement this section for the 2023-2024 fiscal year. The Legislature finds that such emergency rulemaking power is necessary in order to address a critical need in the state's problematic property insurance market. The Legislature further finds that the uniquely short timeframe needed to effectively implement this section for the 2023-2024 fiscal year requires that the board adopt rules as quickly as practicable. Therefore, in adopting such emergency rules, the board need not make the findings required by s. 120.54(4)(a). Emergency rules adopted under this section are exempt from s. 120.54(4)(c) and shall remain in effect until replaced by rules adopted under the nonemergency rulemaking procedures of chapter 120, which must occur no later than December 31, 2023.

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(11) APPROPRIATION.—

(a) Within 60 days after a covered event, the board shall submit written notice to the Executive Office of the Governor if the board determines that funds from FORA coverage established by this section will be necessary to reimburse FORA insurers for losses associated with the covered event. The initial notice, and any subsequent requests, must specify the amount necessary to provide FORA reimbursements. Upon receiving such notice, the Executive Office of the Governor shall instruct the Chief Financial Officer to draw a warrant from the General Revenue Fund for a transfer to the board for FORA in the amount requested. The Executive Office of the Governor shall provide written notification to the chair and vice chair of the Legislative Budget Commission at least 3 days before the effective date of the warrant. Cumulative transfers authorized under this paragraph may not exceed \$1 billion.

(b) Upon this act becoming a law, the Executive Office of the Governor shall instruct the Chief Financial Officer to draw a warrant from the General Revenue Fund for a transfer of \$2 million to the board for the implementation and administration of FORA and post-event examinations for covered events that require FORA coverage. If the board determines additional administrative funds are needed, the board shall submit written notice to the Executive Office of the Governor that funds will be necessary for the implementation and administration of FORA and post-event examinations for covered events that require FORA coverage. The notice must specify the amount necessary for administration of FORA and post-event examinations. Upon receiving such notice, the Executive Office of the Governor

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shall instruct the Chief Financial Officer to draw a warrant from the General Revenue Fund for a transfer to the board for FORA in the amount requested. The Executive Office of the Governor shall provide written notification to the chair and vice chair of the Legislative Budget Commission at least 3 days before the effective date of the warrant. Cumulative transfers authorized under this paragraph may not exceed \$6 million.

(c) If a covered event occurs that triggers reimbursements under FORA, no later than January 31, 2024, and quarterly thereafter, the board shall submit a report to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives detailing any reimbursements of FORA, all premiums collected, all loss development projections, and detailed information about administrative and post-event examination activities and expenditures.

(12) EXPIRATION DATE.—If no general revenue funds have been transferred to the board for FORA under subsection (11) by June 30, 2026, this section expires on July 1, 2026. If general revenue funds have been transferred to the board for FORA under subsection (11) by June 30, 2026, this section expires on July 1, 2030, and all unencumbered funds collected under this section shall be transferred by the board back to the General Revenue Fund unallocated.

Section 2. Section 624.1551, Florida Statutes, is amended to read:

624.1551 Civil remedy actions against property insurers.—
Notwithstanding any provision of s. 624.155 to the contrary, in
any claim for extracontractual damages under s. 624.155(1)(b),

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no action shall lie until a named or omnibus insured or a named beneficiary has established through an adverse adjudication by a court of law ~~a claimant must establish~~ that the property insurer breached the insurance contract and a final judgment or decree has been rendered against the insurer. Acceptance of an offer of judgment under s. 768.79 or the payment of an appraisal award does not constitute an adverse adjudication under this section. The difference between an insurer's appraiser's final estimate and the appraisal award may be evidence of bad faith ~~to prevail in a claim for extracontractual damages~~ under s. 624.155(1)(b), but is not deemed an adverse adjudication under this section and does not, on its own, give rise to a cause of action.

Section 3. Subsection (7) is added to section 624.3161, Florida Statutes, to read:

624.3161 Market conduct examinations.—

(7) Notwithstanding subsection (1), any authorized insurer transacting property insurance business in this state may be subject to an additional market conduct examination after a hurricane if the insurer:

(a) Is among the top 20 percent of insurers based upon a calculation of the ratio of hurricane-related property insurance claims filed to the number of property insurance policies in force;

(b) Is among the top 20 percent of insurers based upon a calculation of the ratio of consumer complaints made to the department to hurricane-related claims;

(c) Has made significant payments to its managing general agent since the hurricane; or

(d) Is identified by the office as necessitating a market

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conduct exam for any other reason.

All relevant criteria under this section and s. 624.316 shall be applied to the market conduct examination under this subsection. Such an examination must be initiated within 18 months after the landfall of a hurricane that results in an executive order or a state of emergency issued by the Governor. An examination of an insurer under this subsection must also include an examination of its managing general agent as if it were the insurer.

Section 4. Paragraph (c) of subsection (2) of section 624.418, Florida Statutes, is amended to read:

624.418 Suspension, revocation of certificate of authority for violations and special grounds.—

(2) The office may, in its discretion, suspend or revoke the certificate of authority of an insurer if it finds that the insurer:

(c) Has for any line, class, or combination thereof, with such frequency as to indicate its general business practice in this state, without just cause:

1. Refused to pay proper claims arising under its policies, whether any such claim is in favor of an insured or is in favor of a third person with respect to the liability of an insured to such third person, or without just cause compels such insureds or claimants to accept less than the amount due them or to employ attorneys or to bring suit against the insurer or such an insured to secure full payment or settlement of such claims; or

2. Compelled insureds to participate in appraisal under a property insurance policy in order to secure full payment or settlement of such claims.

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Section 5. Paragraph (a) of subsection (10) of section 624.424, Florida Statutes, is amended to read:

~~624.424 Annual statement and other information.-~~

(10)(a) Each insurer or insurer group doing business in this state shall file on a quarterly basis in conjunction with financial reports required by paragraph (1)(a) a supplemental report on an individual and group basis on a form prescribed by the commission with information on personal lines and commercial lines residential property insurance policies in this state. The supplemental report shall include separate information for personal lines property policies and for commercial lines property policies and totals for each item specified, including premiums written for each of the property lines of business as described in ss. 215.555(2)(c) and 627.351(6)(a). The report shall include the following information for each county on a monthly basis:

1. Total number of policies in force at the end of each month.
2. Total number of policies canceled.
3. Total number of policies nonrenewed.
4. Number of policies canceled due to hurricane risk.
5. Number of policies nonrenewed due to hurricane risk.
6. Number of new policies written.
7. Total dollar value of structure exposure under policies that include wind coverage.
8. Number of policies that exclude wind coverage.
9. Number of claims open each month.
10. Number of claims closed each month.
11. Number of claims pending each month.

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523 12. Number of claims in which either the insurer or insured
524 invoked any form of alternative dispute resolution, and
525 specifying which form of alternative dispute resolution was
526 used.

527 Section 6. Subsections (1) and (3) of section 626.9373,
528 Florida Statutes, are amended to read:

529 **626.9373 Attorney fees.—**

530 (1) Except as provided in subsection (3), upon the
531 rendition of a judgment or decree by any court of this state
532 against a surplus lines insurer in favor of any named or omnibus
533 insured or the named beneficiary under a policy or contract
534 executed by the insurer on or after the effective date of this
535 act, the trial court or, if the insured or beneficiary prevails
536 on appeal, the appellate court, shall adjudge or decree against
537 the insurer in favor of the insured or beneficiary a reasonable
538 sum as fees or compensation for the insured's or beneficiary's
539 attorney prosecuting the lawsuit for which recovery is awarded.
540 ~~In a suit arising under a residential or commercial property~~
541 ~~insurance policy, the amount of reasonable attorney fees shall~~
542 ~~be awarded only as provided in s. 57.105 or s. 627.70152, as~~
543 ~~applicable.~~

544 (3) In a suit arising under a residential or commercial
545 property insurance policy, **there is no the right to attorney**
546 **fees under this section** ~~may not be transferred to, assigned to,~~
547 ~~or acquired in any other manner by anyone other than a named or~~
548 ~~omnibus insured or a named beneficiary.~~

549 Section 7. Paragraph (i) of subsection (1) of section
550 626.9541, Florida Statutes, is amended to read:

551 **626.9541 Unfair methods of competition and unfair or**

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deceptive acts or practices defined.—

(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS.—The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(i) *Unfair claim settlement practices.*—

1. Attempting to settle claims on the basis of an application, when serving as a binder or intended to become a part of the policy, or any other material document which was altered without notice to, or knowledge or consent of, the insured;

2. A material misrepresentation made to an insured or any other person having an interest in the proceeds payable under such contract or policy, for the purpose and with the intent of effecting settlement of such claims, loss, or damage under such contract or policy on less favorable terms than those provided in, and contemplated by, such contract or policy;

3. Committing or performing with such frequency as to indicate a general business practice any of the following:

a. Failing to adopt and implement standards for the proper investigation of claims;

b. Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;

c. Failing to acknowledge and act promptly upon communications with respect to claims;

d. Denying claims without conducting reasonable investigations based upon available information;

e. Failing to affirm or deny full or partial coverage of claims, and, as to partial coverage, the dollar amount or extent of coverage, or failing to provide a written statement that the

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claim is being investigated, upon the written request of the insured within 30 days after proof-of-loss statements have been completed;

f. Failing to promptly provide a reasonable explanation in writing to the insured of the basis in the insurance policy, in relation to the facts or applicable law, for denial of a claim or for the offer of a compromise settlement;

g. Failing to promptly notify the insured of any additional information necessary for the processing of a claim;

h. Failing to clearly explain the nature of the requested information and the reasons why such information is necessary; or

i. Failing to pay personal injury protection insurance claims within the time periods required by s. 627.736(4)(b). The office may order the insurer to pay restitution to a policyholder, medical provider, or other claimant, including interest at a rate consistent with the amount set forth in s. 55.03(1), for the time period within which an insurer fails to pay claims as required by law. Restitution is in addition to any other penalties allowed by law, including, but not limited to, the suspension of the insurer's certificate of authority; or

4. Failing to pay undisputed amounts of partial or full benefits owed under first-party property insurance policies within 60 ~~90~~ days after an insurer receives notice of a residential property insurance claim, determines the amounts of partial or full benefits, and agrees to coverage, unless payment of the undisputed benefits is prevented by factors beyond the control of the insurer as defined in s. 627.70131(5) ~~an act of God, prevented by the impossibility of performance, or due to~~

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

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

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

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

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

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

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

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668 excluding wind. The corporation may, however, continue to renew
669 a commercial residential multiperil policy on a building that is
670 insured by the corporation on June 30, 2014, under a multiperil
671 policy. In issuing multiperil coverage, the corporation may use
672 its approved policy forms and rates for the personal lines
673 account. An applicant or insured who is eligible to purchase a
674 multiperil policy from the corporation may purchase a multiperil
675 policy from an authorized insurer without prejudice to the
676 applicant's or insured's eligibility to prospectively purchase a
677 policy that provides coverage only for the peril of wind from
678 the corporation. An applicant or insured who is eligible for a
679 corporation policy that provides coverage only for the peril of
680 wind may elect to purchase or retain such policy and also
681 purchase or retain coverage excluding wind from an authorized
682 insurer without prejudice to the applicant's or insured's
683 eligibility to prospectively purchase a policy that provides
684 multiperil coverage from the corporation. It is the goal of the
685 Legislature that there be an overall average savings of 10
686 percent or more for a policyholder who currently has a wind-only
687 policy with the corporation, and an ex-wind policy with a
688 voluntary insurer or the corporation, and who obtains a
689 multiperil policy from the corporation. It is the intent of the
690 Legislature that the offer of multiperil coverage in the coastal
691 account be made and implemented in a manner that does not
692 adversely affect the tax-exempt status of the corporation or
693 creditworthiness of or security for currently outstanding
694 financing obligations or credit facilities of the coastal
695 account, the personal lines account, or the commercial lines
696 account. The coastal account must also include quota share

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

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

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726 subparagraph and subparagraph 3. shall be replaced in their
727 entirety by subparagraphs 4. and 5.

728 c. Creditors of the Residential Property and Casualty Joint
729 Underwriting Association and the accounts specified in sub-sub-
730 subparagraphs a.(I) and (II) may have a claim against, and
731 recourse to, those accounts and no claim against, or recourse
732 to, the account referred to in sub-sub-subparagraph a.(III).
733 Creditors of the Florida Windstorm Underwriting Association have
734 a claim against, and recourse to, the account referred to in
735 sub-sub-subparagraph a.(III) and no claim against, or recourse
736 to, the accounts referred to in sub-sub-subparagraphs a.(I) and
737 (II).

738 d. Revenues, assets, liabilities, losses, and expenses not
739 attributable to particular accounts shall be prorated among the
740 accounts.

741 e. The Legislature finds that the revenues of the
742 corporation are revenues that are necessary to meet the
743 requirements set forth in documents authorizing the issuance of
744 bonds under this subsection.

745 f. The income of the corporation may not inure to the
746 benefit of any private person.

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

748 a. After accounting for the Citizens policyholder surcharge
749 imposed under subparagraph i., if the remaining projected
750 deficit incurred in the coastal account in a particular calendar
751 year:

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

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

757 (II) Exceeds 2 percent of the aggregate statewide direct
758 written premium for the subject lines of business for the prior
759 calendar year, the corporation shall levy regular assessments on
760 assessable insurers under paragraph (q) and on assessable
761 insureds in an amount equal to the greater of 2 percent of the
762 projected deficit or 2 percent of the aggregate statewide direct
763 written premium for the subject lines of business for the prior
764 calendar year. Any remaining projected deficit shall be
765 recovered through emergency assessments under sub-subparagraph
766 e. ~~d.~~

767 b. Each assessable insurer's share of the amount being
768 assessed under sub-subparagraph a. must be in the proportion
769 that the assessable insurer's direct written premium for the
770 subject lines of business for the year preceding the assessment
771 bears to the aggregate statewide direct written premium for the
772 subject lines of business for that year. The assessment
773 percentage applicable to each assessable insured is the ratio of
774 the amount being assessed under sub-subparagraph a. to the
775 aggregate statewide direct written premium for the subject lines
776 of business for the prior year. Assessments levied by the
777 corporation on assessable insurers under sub-subparagraph a.
778 must be paid as required by the corporation's plan of operation
779 and paragraph (q). Assessments levied by the corporation on
780 assessable insureds under sub-subparagraph a. shall be collected
781 by the surplus lines agent at the time the surplus lines agent
782 collects the surplus lines tax required by s. 626.932, and paid
783 to the Florida Surplus Lines Service Office at the time the

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784 surplus lines agent pays the surplus lines tax to that office.
785 Upon receipt of regular assessments from surplus lines agents,
786 the Florida Surplus Lines Service Office shall transfer the
787 assessments directly to the corporation as determined by the
788 corporation.

789 c. The corporation may not levy regular assessments under
790 paragraph (q) pursuant to sub-subparagraph a. or sub-
791 subparagraph b. if the three separate accounts in sub-sub-
792 subparagraphs 2.a.(I)-(III) have been consolidated into the
793 Citizens account pursuant to sub-subparagraph 2.b. However, the
794 outstanding balance of any regular assessment levied by the
795 corporation before establishment of the Citizens account remains
796 payable to the corporation.

797 d. After accounting for the Citizens policyholder surcharge
798 imposed under sub-subparagraph j. ~~i.~~, the remaining projected
799 deficits in the personal lines account and in the commercial
800 lines account in a particular calendar year shall be recovered
801 through emergency assessments under sub-subparagraph e. ~~d.~~

802 e.~~d.~~ Upon a determination by the board of governors that a
803 projected deficit in an account exceeds the amount that is
804 expected to be recovered through regular assessments under sub-
805 subparagraph a., plus the amount that is expected to be
806 recovered through surcharges under sub-subparagraph j. ~~i.~~, the
807 board, after verification by the office, shall levy emergency
808 assessments for as many years as necessary to cover the
809 deficits, to be collected by assessable insurers and the
810 corporation and collected from assessable insureds upon issuance
811 or renewal of policies for subject lines of business, excluding
812 National Flood Insurance policies. The amount collected in a

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

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842 interest, fees, commissions, required reserves, and other costs
843 associated with financing the original deficit, or 10 percent of
844 the aggregate statewide direct written premium for subject lines
845 of business and all accounts of the corporation for the prior
846 year, plus interest, fees, commissions, required reserves, and
847 other costs associated with financing the deficit.

848 f.e. The corporation may pledge the proceeds of
849 assessments, projected recoveries from the Florida Hurricane
850 Catastrophe Fund, other insurance and reinsurance recoverables,
851 policyholder surcharges and other surcharges, and other funds
852 available to the corporation as the source of revenue for and to
853 secure bonds issued under paragraph (q), bonds or other
854 indebtedness issued under subparagraph (c)3., or lines of credit
855 or other financing mechanisms issued or created under this
856 subsection, or to retire any other debt incurred as a result of
857 deficits or events giving rise to deficits, or in any other way
858 that the board determines will efficiently recover such
859 deficits. The purpose of the lines of credit or other financing
860 mechanisms is to provide additional resources to assist the
861 corporation in covering claims and expenses attributable to a
862 catastrophe. As used in this subsection, the term "assessments"
863 includes regular assessments under sub-subparagraph a. or
864 subparagraph (q)1. and emergency assessments under sub-
865 subparagraph e. ~~d.~~ Emergency assessments collected under sub-
866 subparagraph e. ~~d.~~ are not part of an insurer's rates, are not
867 premium, and are not subject to premium tax, fees, or
868 commissions; however, failure to pay the emergency assessment
869 shall be treated as failure to pay premium. The emergency
870 assessments shall continue as long as any bonds issued or other

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871 indebtedness incurred with respect to a deficit for which the
872 assessment was imposed remain outstanding, unless adequate
873 provision has been made for the payment of such bonds or other
874 indebtedness pursuant to the documents governing such bonds or
875 indebtedness.

876 ~~g.f.~~ As used in this subsection for purposes of any deficit
877 incurred on or after January 25, 2007, the term "subject lines
878 of business" means insurance written by assessable insurers or
879 procured by assessable insureds for all property and casualty
880 lines of business in this state, but not including workers'
881 compensation or medical malpractice. As used in this sub-
882 subparagraph, the term "property and casualty lines of business"
883 includes all lines of business identified on Form 2, Exhibit of
884 Premiums and Losses, in the annual statement required of
885 authorized insurers under s. 624.424 and any rule adopted under
886 this section, except for those lines identified as accident and
887 health insurance and except for policies written under the
888 National Flood Insurance Program or the Federal Crop Insurance
889 Program. For purposes of this sub-subparagraph, the term
890 "workers' compensation" includes both workers' compensation
891 insurance and excess workers' compensation insurance.

892 ~~h.g.~~ The Florida Surplus Lines Service Office shall
893 determine annually the aggregate statewide written premium in
894 subject lines of business procured by assessable insureds and
895 report that information to the corporation in a form and at a
896 time the corporation specifies to ensure that the corporation
897 can meet the requirements of this subsection and the
898 corporation's financing obligations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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958 eligible for coverage by the Florida Windstorm Underwriting
959 Association, as those areas were defined on January 1, 2002. The
960 corporation may not offer new commercial residential policies
961 providing multiperil coverage, but shall continue to offer
962 commercial residential wind-only policies, and may offer
963 commercial residential policies excluding wind. However, the
964 corporation may continue to renew a commercial residential
965 multiperil policy on a building that was insured by the
966 corporation on June 30, 2014, under a multiperil policy. In
967 issuing multiperil coverage under this sub-subparagraph, the
968 corporation may use its approved policy forms and rates for
969 risks located in areas not eligible for coverage by the Florida
970 Windstorm Underwriting Association as those areas were defined
971 on January 1, 2002, and for policies that do not provide
972 coverage for the peril of wind on risks that are located in such
973 areas. An applicant or insured who is eligible to purchase a
974 multiperil policy from the corporation may purchase a multiperil
975 policy from an authorized insurer without prejudice to the
976 applicant's or insured's eligibility to prospectively purchase a
977 policy that provides coverage only for the peril of wind from
978 the corporation. An applicant or insured who is eligible for a
979 corporation policy that provides coverage only for the peril of
980 wind may elect to purchase or retain such policy and also
981 purchase or retain coverage excluding wind from an authorized
982 insurer without prejudice to the applicant's or insured's
983 eligibility to prospectively purchase a policy that provides
984 multiperil coverage from the corporation. The following
985 policies, which provide coverage only for the peril of wind,
986 must also include quota share primary insurance under

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

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

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

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

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

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

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

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

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

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1045 assessable insurers shall begin to collect and assessable
1046 insureds shall begin to pay such assessment. The date must be at
1047 least 90 days after the date the corporation levies emergency
1048 assessments pursuant to this sub-subparagraph. Notwithstanding
1049 any other law, the corporation and each assessable insurer that
1050 writes subject lines of business shall collect emergency
1051 assessments from its policyholders without such obligation being
1052 affected by any credit, limitation, exemption, or deferment.
1053 Emergency assessments levied by the corporation on assessable
1054 insureds shall be collected by the surplus lines agent at the
1055 time the surplus lines agent collects the surplus lines tax
1056 required by s. 626.932 and paid to the Florida Surplus Lines
1057 Service Office at the time the surplus lines agent pays the
1058 surplus lines tax to that office. The emergency assessments
1059 collected shall be transferred directly to the corporation on a
1060 periodic basis as determined by the corporation and held by the
1061 corporation solely in the Citizens account. The aggregate amount
1062 of emergency assessments levied for the Citizens account in any
1063 calendar year may be less than, but may not exceed the greater
1064 of, 10 percent of the amount needed to cover the deficit, plus
1065 interest, fees, commissions, required reserves, and other costs
1066 associated with financing the original deficit or 10 percent of
1067 the aggregate statewide direct written premium for subject lines
1068 of business and the Citizens accounts for the prior year, plus
1069 interest, fees, commissions, required reserves, and other costs
1070 associated with financing the deficit.

1071 d. The corporation may pledge the proceeds of assessments,
1072 projected recoveries from the Florida Hurricane Catastrophe
1073 Fund, other insurance and reinsurance recoverables, policyholder

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1074 surcharges and other surcharges, and other funds available to
1075 the corporation as the source of revenue for and to secure bonds
1076 issued under paragraph (q), bonds or other indebtedness issued
1077 under subparagraph (c)3., or lines of credit or other financing
1078 mechanisms issued or created under this subsection; or to retire
1079 any other debt incurred as a result of deficits or events giving
1080 rise to deficits, or in any other way that the board determines
1081 will efficiently recover such deficits. The purpose of the lines
1082 of credit or other financing mechanisms is to provide additional
1083 resources to assist the corporation in covering claims and
1084 expenses attributable to a catastrophe. As used in this
1085 subsection, the term "assessments" includes emergency
1086 assessments under sub-subparagraph c. Emergency assessments
1087 collected under sub-subparagraph c. are not part of an insurer's
1088 rates, are not premium, and are not subject to premium tax,
1089 fees, or commissions; however, failure to pay the emergency
1090 assessment shall be treated as failure to pay premium. The
1091 emergency assessments shall continue as long as any bonds issued
1092 or other indebtedness incurred with respect to a deficit for
1093 which the assessment was imposed remain outstanding, unless
1094 adequate provision has been made for the payment of such bonds
1095 or other indebtedness pursuant to the documents governing such
1096 bonds or indebtedness.

1097 e. As used in this subsection and for purposes of any
1098 deficit incurred on or after January 25, 2007, the term "subject
1099 lines of business" means insurance written by assessable
1100 insurers or procured by assessable insureds for all property and
1101 casualty lines of business in this state, but not including
1102 workers' compensation or medical malpractice. As used in this

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

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

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

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

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

(c) The corporation's plan of operation:

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

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

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

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

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

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1161 ~~(b)2.a.~~

1162 e. Commercial lines nonresidential property insurance forms
1163 that cover the peril of wind only. The forms are applicable only
1164 to nonresidential properties located in areas eligible for
1165 coverage by the Florida Windstorm Underwriting Association, as
1166 those areas were defined on January 1, 2002 ~~under the coastal~~
1167 ~~account referred to in sub-subparagraph (b)2.a.~~

1168 f. The corporation may adopt variations of the policy forms
1169 listed in sub-subparagraphs a.-e. which contain more restrictive
1170 coverage.

1171 g. ~~Effective January 1, 2013,~~ The corporation shall offer a
1172 basic personal lines policy similar to an HO-8 policy with
1173 dwelling repair based on common construction materials and
1174 methods.

1175 2. Must provide that the corporation adopt a program in
1176 which the corporation and authorized insurers enter into quota
1177 share primary insurance agreements for hurricane coverage, as
1178 defined in s. 627.4025(2)(a), for eligible risks, and adopt
1179 property insurance forms for eligible risks which cover the
1180 peril of wind only.

1181 a. As used in this subsection, the term:

1182 (I) "Quota share primary insurance" means an arrangement in
1183 which the primary hurricane coverage of an eligible risk is
1184 provided in specified percentages by the corporation and an
1185 authorized insurer. The corporation and authorized insurer are
1186 each solely responsible for a specified percentage of hurricane
1187 coverage of an eligible risk as set forth in a quota share
1188 primary insurance agreement between the corporation and an
1189 authorized insurer and the insurance contract. The

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

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

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

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

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

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1219 for a uniform specified percentage of coverage of hurricane
1220 losses, by county or territory as set forth by the corporation
1221 board, for all eligible risks of the authorized insurer covered
1222 under the agreement.

1223 e. Any quota share primary insurance agreement entered into
1224 between an authorized insurer and the corporation is subject to
1225 review and approval by the office. However, such agreement shall
1226 be authorized only as to insurance contracts entered into
1227 between an authorized insurer and an insured who is already
1228 insured by the corporation for wind coverage.

1229 f. For all eligible risks covered under quota share primary
1230 insurance agreements, the exposure and coverage levels for both
1231 the corporation and authorized insurers shall be reported by the
1232 corporation to the Florida Hurricane Catastrophe Fund. For all
1233 policies of eligible risks covered under such agreements, the
1234 corporation and the authorized insurer must maintain complete
1235 and accurate records for the purpose of exposure and loss
1236 reimbursement audits as required by fund rules. The corporation
1237 and the authorized insurer shall each maintain duplicate copies
1238 of policy declaration pages and supporting claims documents.

1239 g. The corporation board shall establish in its plan of
1240 operation standards for quota share agreements which ensure that
1241 there is no discriminatory application among insurers as to the
1242 terms of the agreements, pricing of the agreements, incentive
1243 provisions if any, and consideration paid for servicing policies
1244 or adjusting claims.

1245 h. The quota share primary insurance agreement between the
1246 corporation and an authorized insurer must set forth the
1247 specific terms under which coverage is provided, including, but

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

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

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

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

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

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1306 officer. All members of the board are subject to removal at will
1307 by the officers who appointed them. All board members, including
1308 the chair, must be appointed to serve for 3-year terms beginning
1309 annually on a date designated by the plan. However, for the
1310 first term beginning on or after July 1, 2009, each appointing
1311 officer shall appoint one member of the board for a 2-year term
1312 and one member for a 3-year term. A board vacancy shall be
1313 filled for the unexpired term by the appointing officer. The
1314 Chief Financial Officer shall appoint a technical advisory group
1315 to provide information and advice to the board in connection
1316 with the board's duties under this subsection. The executive
1317 director and senior managers of the corporation shall be engaged
1318 by the board and serve at the pleasure of the board. Any
1319 executive director appointed on or after July 1, 2006, is
1320 subject to confirmation by the Senate. The executive director is
1321 responsible for employing other staff as the corporation may
1322 require, subject to review and concurrence by the board.

1323 b. The board shall create a Market Accountability Advisory
1324 Committee to assist the corporation in developing awareness of
1325 its rates and its customer and agent service levels in
1326 relationship to the voluntary market insurers writing similar
1327 coverage.

1328 (I) The members of the advisory committee consist of the
1329 following 11 persons, one of whom must be elected chair by the
1330 members of the committee: four representatives, one appointed by
1331 the Florida Association of Insurance Agents, one by the Florida
1332 Association of Insurance and Financial Advisors, one by the
1333 Professional Insurance Agents of Florida, and one by the Latin
1334 American Association of Insurance Agencies; three

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

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

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

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

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1364 renewal from an authorized insurer, if the offer is equal to or
1365 less than the corporation's renewal premium for comparable
1366 coverage, the risk is not eligible for coverage with the
1367 corporation for policies that renew before April 1, 2023; for
1368 policies that renew on or after that date, the risk is not
1369 eligible for coverage with the corporation unless the premium
1370 for coverage from the authorized insurer is more than 20 percent
1371 greater than the corporation's renewal premium for comparable
1372 coverage. If the risk is not able to obtain such offer, the risk
1373 is eligible for a standard policy including wind coverage or a
1374 basic policy including wind coverage issued by the corporation;
1375 however, if the risk could not be insured under a standard
1376 policy including wind coverage regardless of market conditions,
1377 the risk is eligible for a basic policy including wind coverage
1378 unless rejected under subparagraph 8. ~~However, a policyholder~~
1379 ~~removed from the corporation through an assumption agreement~~
1380 ~~remains eligible for coverage from the corporation until the end~~
1381 ~~of the assumption period.~~ The corporation shall determine the
1382 type of policy to be provided on the basis of objective
1383 standards specified in the underwriting manual and based on
1384 generally accepted underwriting practices. A policyholder
1385 removed from the corporation through an assumption agreement
1386 does not remain eligible for coverage from the corporation after
1387 the end of the policy term. However, any policy removed from the
1388 corporation through an assumption agreement remains on the
1389 corporation's policy forms through the end of the policy term.

1390 (I) If the risk accepts an offer of coverage through the
1391 market assistance plan or through a mechanism established by the
1392 corporation other than a plan established by s. 627.3518, before

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

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

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

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

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

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

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

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

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

b. With respect to commercial lines residential risks, for a new application to the corporation for coverage, if the risk is offered coverage under a policy including wind coverage from an authorized insurer at its approved rate, the risk is not eligible for a policy issued by the corporation unless the premium for coverage from the authorized insurer is more than 20 ~~15~~ percent greater than the premium for comparable coverage from the corporation. Whenever an offer of coverage for a commercial lines residential risk is received for a policyholder of the corporation at renewal from an authorized insurer, ~~if the offer is equal to or less than the corporation's renewal premium for comparable coverage,~~ the risk is not eligible for coverage with the corporation unless the premium for coverage from the authorized insurer is more than 20 percent greater than the corporation's renewal premium for comparable coverage. If the risk is not able to obtain any such offer, the risk is eligible for a policy including wind coverage issued by the corporation. ~~However,~~ A policyholder removed from the corporation through an assumption agreement remains eligible for coverage from the corporation until the end of the policy term. ~~However,~~ any policy removed from the corporation through an assumption agreement remains on the corporation's policy forms through the

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1451 end of the policy term ~~assumption period~~.

1452 (I) If the risk accepts an offer of coverage through the
1453 market assistance plan or through a mechanism established by the
1454 corporation other than a plan established by s. 627.3518, before
1455 a policy is issued to the risk by the corporation or during the
1456 first 30 days of coverage by the corporation, and the producing
1457 agent who submitted the application to the plan or the
1458 corporation is not currently appointed by the insurer, the
1459 insurer shall:

1460 (A) Pay to the producing agent of record of the policy, for
1461 the first year, an amount that is the greater of the insurer's
1462 usual and customary commission for the type of policy written or
1463 a fee equal to the usual and customary commission of the
1464 corporation; or

1465 (B) Offer to allow the producing agent of record of the
1466 policy to continue servicing the policy for at least 1 year and
1467 offer to pay the agent the greater of the insurer's or the
1468 corporation's usual and customary commission for the type of
1469 policy written.

1470
1471 If the producing agent is unwilling or unable to accept
1472 appointment, the new insurer shall pay the agent in accordance
1473 with sub-sub-sub-subparagraph (A).

1474 (II) If the corporation enters into a contractual agreement
1475 for a take-out plan, the producing agent of record of the
1476 corporation policy is entitled to retain any unearned commission
1477 on the policy, and the insurer shall:

1478 (A) Pay to the producing agent of record, for the first
1479 year, an amount that is the greater of the insurer's usual and

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

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

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

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

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1509 corporation and the authorized insurer; the same method for loss
1510 payment, such as replacement cost or actual cash value, if the
1511 same method is offered both by the corporation and the
1512 authorized insurer in accordance with underwriting rules; and
1513 any other form or coverage that is reasonably comparable as
1514 determined by the board. If an application is submitted to the
1515 corporation for wind-only coverage on a risk that is located in
1516 an area eligible for coverage by the Florida Windstorm
1517 Underwriting Association, as that area was defined on January 1,
1518 2002 ~~in the coastal account~~, the premium for the corporation's
1519 wind-only policy plus the premium for the ex-wind policy that is
1520 offered by an authorized insurer to the applicant must be
1521 compared to the premium for multiperil coverage offered by an
1522 authorized insurer, subject to the standards for comparison
1523 specified in this subparagraph. If the corporation or the
1524 applicant requests from the authorized insurer a breakdown of
1525 the premium of the offer by types of coverage so that a
1526 comparison may be made by the corporation or its agent and the
1527 authorized insurer refuses or is unable to provide such
1528 information, the corporation may treat the offer as not being an
1529 offer of coverage from an authorized insurer at the insurer's
1530 approved rate.

1531 6. Must include rules for classifications of risks and
1532 rates.

1533 7. Must provide that if premium and investment income:

1534 a. For an account attributable to a particular calendar
1535 year are in excess of projected losses and expenses for the
1536 account attributable to that year, such excess shall be held in
1537 surplus in the account. Such surplus must be available to defray

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

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

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

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

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

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

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

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

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

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

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

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

13. Must provide that:7

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

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

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

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

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

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

a. Screened enclosures that are aluminum framed or screened

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

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

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

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

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

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

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

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

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

ACKNOWLEDGMENT OF POTENTIAL SURCHARGE
AND ASSESSMENT LIABILITY:

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

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

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

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

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

ACKNOWLEDGMENT OF POTENTIAL SURCHARGE
AND ASSESSMENT LIABILITY:

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

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

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

4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE

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1741 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
1742 STATE OF FLORIDA.

1743
1744 c.a. The corporation shall maintain, in electronic format
1745 or otherwise, a copy of the applicant's signed acknowledgment
1746 and provide a copy of the statement to the policyholder as part
1747 of the first renewal after the effective date of sub-
1748 subparagraph a. or sub-subparagraph b., as applicable ~~this~~
1749 ~~subparagraph.~~

1750 d.b. The signed acknowledgment form creates a conclusive
1751 presumption that the policyholder understood and accepted his or
1752 her potential surcharge and assessment liability as a
1753 policyholder of the corporation.

1754 (n)1. Rates for coverage provided by the corporation must
1755 be actuarially sound pursuant ~~and subject~~ to s. 627.062 and not
1756 competitive with approved rates charged in the admitted
1757 voluntary market so that the corporation functions as a residual
1758 market mechanism to provide insurance only when insurance cannot
1759 be procured in the voluntary market, except as otherwise
1760 provided in this paragraph. The office shall provide the
1761 corporation such information as would be necessary to determine
1762 whether rates are competitive. The corporation shall file its
1763 recommended rates with the office at least annually. The
1764 corporation shall provide any additional information regarding
1765 the rates which the office requires. The office shall consider
1766 the recommendations of the board and issue a final order
1767 establishing the rates for the corporation within 45 days after
1768 the recommended rates are filed. The corporation may not pursue
1769 an administrative challenge or judicial review of the final

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order of the office.

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

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

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

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

~~a. Eleven percent for 2022.~~

~~b. Twelve percent for 2023.~~

~~b.e.~~ Thirteen percent for 2024.

~~c.d.~~ Fourteen percent for 2025.

~~d.e.~~ Fifteen percent for 2026 and all subsequent years.

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1799 6. The corporation may also implement an increase to
1800 reflect the effect on the corporation of the cash buildup factor
1801 pursuant to s. 215.555(5) (b).

1802 7. The corporation's implementation of rates as prescribed
1803 in subparagraphs 5. and 8. ~~subparagraph 5.~~ shall cease for any
1804 line of business written by the corporation upon the
1805 corporation's implementation of actuarially sound rates.
1806 Thereafter, the corporation shall annually make a recommended
1807 actuarially sound rate filing that is not competitive with
1808 approved rates in the admitted voluntary market for each
1809 commercial and personal line of business the corporation writes.

1810 8. For any new or renewal personal lines policy written on
1811 or after November 1, 2023, which does not cover a primary
1812 residence, the rate to be applied in calculating premium is not
1813 subject to the rate increase limitations in subparagraph 5.
1814 However, the policyholder may not be charged more than 50
1815 percent above, and may not be charged less than, the established
1816 rate for the corporation which was in effect 1 year before the
1817 date of the application.

1818 9. As used in this paragraph, the term "primary residence"
1819 means the dwelling that is the policyholder's primary home or is
1820 a rental property that is the primary home of the tenant, and
1821 which the policyholder or tenant occupies for more than 9 months
1822 of each year.

1823 (o) If coverage in an account, or the Citizens account if
1824 established by the corporation, is deactivated pursuant to
1825 paragraph (p), coverage through the corporation shall be
1826 reactivated by order of the office only under one of the
1827 following circumstances:

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1828 1. If the market assistance plan receives a minimum of 100
1829 applications for coverage within a 3-month period, or 200
1830 applications for coverage within a 1-year period or less for
1831 residential coverage, unless the market assistance plan provides
1832 a quotation from admitted carriers at their filed rates for at
1833 least 90 percent of such applicants. Any market assistance plan
1834 application that is rejected because an individual risk is so
1835 hazardous as to be uninsurable using the criteria specified in
1836 subparagraph (c)8. shall not be included in the minimum
1837 percentage calculation provided herein. In the event that there
1838 is a legal or administrative challenge to a determination by the
1839 office that the conditions of this subparagraph have been met
1840 for eligibility for coverage in the corporation, any eligible
1841 risk may obtain coverage during the pendency of such challenge.

1842 2. In response to a state of emergency declared by the
1843 Governor under s. 252.36, the office may activate coverage by
1844 order for the period of the emergency upon a finding by the
1845 office that the emergency significantly affects the availability
1846 of residential property insurance.

1847 (p)1. The corporation shall file with the office quarterly
1848 statements of financial condition, an annual statement of
1849 financial condition, and audited financial statements in the
1850 manner prescribed by law. In addition, the corporation shall
1851 report to the office monthly on the types, premium, exposure,
1852 and distribution by county of its policies in force, and shall
1853 submit other reports as the office requires to carry out its
1854 oversight of the corporation.

1855 2. The activities of the corporation shall be reviewed at
1856 least annually by the office to determine whether coverage shall

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1857 be deactivated in an account, or in the Citizens account if
1858 established by the corporation, on the basis that the conditions
1859 giving rise to its activation no longer exist.

1860 (q)1. The corporation shall certify to the office its needs
1861 for annual assessments as to a particular calendar year, and for
1862 any interim assessments that it deems to be necessary to sustain
1863 operations as to a particular year pending the receipt of annual
1864 assessments. Upon verification, the office shall approve such
1865 certification, and the corporation shall levy such annual or
1866 interim assessments. Such assessments shall be prorated, if
1867 authority to levy exists, as provided in paragraph (b). The
1868 corporation shall take all reasonable and prudent steps
1869 necessary to collect the amount of assessments due from each
1870 assessable insurer, including, if prudent, filing suit to
1871 collect the assessments, and the office may provide such
1872 assistance to the corporation it deems appropriate. If the
1873 corporation is unable to collect an assessment from any
1874 assessable insurer, the uncollected assessments shall be levied
1875 as an additional assessment against the assessable insurers and
1876 any assessable insurer required to pay an additional assessment
1877 as a result of such failure to pay shall have a cause of action
1878 against such nonpaying assessable insurer. Assessments shall be
1879 included as an appropriate factor in the making of rates. The
1880 failure of a surplus lines agent to collect and remit any
1881 regular or emergency assessment levied by the corporation is
1882 considered to be a violation of s. 626.936 and subjects the
1883 surplus lines agent to the penalties provided in that section.

1884 2. The governing body of any unit of local government, any
1885 residents of which are insured by the corporation, may issue

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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provided by the fund to the Residential Property and Casualty Joint Underwriting Association based on its exposures as of June 30, 2002, and each June 30 thereafter, unless the corporation has established the Citizens account, shall be transferred to the personal lines account and the commercial lines account of the corporation. Notwithstanding any other provision of law, the coastal account, unless the corporation has established the Citizens account, shall be treated, for all Florida Hurricane Catastrophe Fund purposes, as if it were a separate participating insurer with its own exposures, reimbursement premium, and loss reimbursement. Likewise, the personal lines and commercial lines accounts, unless the corporation has established the Citizens account, shall be viewed together, for all fund purposes, as if the two accounts were one and represent a single, separate participating insurer with its own exposures, reimbursement premium, and loss reimbursement. The coverage provided by the fund to the corporation shall constitute and operate as a full transfer of coverage from the Florida Windstorm Underwriting Association and Residential Property and Casualty Joint Underwriting Association to the corporation.

(w) Notwithstanding any other provision of law:

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

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

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

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

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

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

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

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

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

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

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

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

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

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2176 c. January 1, 2026, for property valued at \$400,000 or
2177 more.

2178 d. January 1, 2027, for all other personal lines
2179 residential property insured by the corporation.

2180 2. All personal lines residential policyholders whose
2181 property insured by the corporation is located within the
2182 special flood hazard area defined by the Federal Emergency
2183 Management Agency must have flood coverage in place:

2184 a. At the time of initial policy issuance for all new
2185 personal lines residential policies issued by the corporation on
2186 or after April 1, 2023.

2187 b. By the time of the policy renewal for all personal lines
2188 residential policies renewing on or after July 1, 2023.

2189 3. Policyholders whose policies issued by the corporation
2190 do not provide coverage for the peril of wind are not required
2191 to purchase flood insurance as a condition for maintaining their
2192 policies with the corporation.

2193
2194 The flood insurance required under this paragraph must meet, at
2195 a minimum, the coverage available from the National Flood
2196 Insurance Program or the requirements of subparagraphs s.
2197 627.715(1)(a)1., 2., and 3.

2198 (ii) The corporation shall revise the programs adopted
2199 pursuant to sub-subparagraph (q)3.a. for personal lines
2200 residential policies to maximize policyholder options and
2201 encourage increased participation by insurers and agents. After
2202 January 1, 2017, a policy may not be taken out of the
2203 corporation unless the provisions of this paragraph are met.

2204 1. The corporation must publish a periodic schedule of

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

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

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

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

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

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

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

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

~~627.351 Insurance risk apportionment plans.—~~

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

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

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

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

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

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

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

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

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

627.3511 Depopulation of Citizens Property Insurance Corporation.—

(3) EXEMPTION FROM DEFICIT ASSESSMENTS.—

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

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

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

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

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

(6) COMMERCIAL RESIDENTIAL TAKE-OUT PLANS.—

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

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

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

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

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

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commercial residential policies until the earlier of:

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

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

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

Section 11. Effective January 1, 2023, subsection (5) of section 627.3518, Florida Statutes, is amended to read:

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

(5) Notwithstanding s. 627.3517, any applicant for new coverage from the corporation is not eligible for coverage from the corporation if provided an offer of coverage from an authorized insurer through the program at a premium that is at or below the eligibility threshold for applicants for new coverage established in s. 627.351(6)(c)5.a. Whenever an offer of coverage for a personal lines risk is received for a policyholder of the corporation at renewal from an authorized

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insurer through the program which is at or below the eligibility
threshold for policyholders of the corporation established in s.
627.351(6)(c)5.a., if the offer is equal to or less than the
~~corporation's renewal premium for comparable coverage,~~ the risk
is not eligible for coverage with the corporation. In the event
an offer of coverage for a new applicant is received from an
authorized insurer through the program, and the premium offered
exceeds the eligibility threshold for applicants for new
coverage established ~~contained~~ in s. 627.351(6)(c)5.a., the
applicant or insured may elect to accept such coverage, or may
elect to accept or continue coverage with the corporation. In
the event an offer of coverage for a personal lines risk is
received from an authorized insurer at renewal through the
program, and the premium offered exceeds the eligibility
threshold for policyholders of the corporation established in s.
627.351(6)(c)5.a. is more than the corporation's renewal premium
~~for comparable coverage,~~ the insured may elect to accept such
coverage, or may elect to accept or continue coverage with the
corporation. Section 627.351(6)(c)5.a.(I) does not apply to an
offer of coverage from an authorized insurer obtained through
the program. ~~An applicant for coverage from the corporation who~~
~~was declared ineligible for coverage at renewal by the~~
~~corporation in the previous 36 months due to an offer of~~
~~coverage pursuant to this subsection shall be considered a~~
~~renewal under this section if the corporation determines that~~
~~the authorized insurer making the offer of coverage pursuant to~~
~~this subsection continues to insure the applicant and increased~~
~~the rate on the policy in excess of the increase allowed for the~~
~~corporation under s. 627.351(6)(n)5.~~

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

~~627.410 Filing, approval of forms.-~~

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

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

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

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

~~627.428 Attorney fees.-~~

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

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

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

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

627.7011 Homeowners' policies; offer of replacement cost coverage and law and ordinance coverage.—

(4)

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

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

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2437 WITH YOUR INSURANCE AGENT.”

2438

2439 Section 15. Effective March 1, 2023, present subsection (8)

2440 of section 627.70131, Florida Statutes, is redesignated as

2441 subsection (9), a new subsection (8) is added to that section,

2442 and paragraph (a) of subsection (1), subsections (3), (4), and

2443 (5), and paragraph (a) of subsection (7) of that section are

2444 amended, to read:

2445 627.70131 Insurer's duty to acknowledge communications

2446 regarding claims; investigation.-

2447 (1)(a) Upon an insurer's receiving a communication with

2448 respect to a claim, the insurer shall, within 7 ~~14~~ calendar

2449 days, review and acknowledge receipt of such communication

2450 unless payment is made within that period of time or unless the

2451 failure to acknowledge is caused by factors beyond the control

2452 of the insurer ~~which reasonably prevent such acknowledgment~~. If

2453 the acknowledgment is not in writing, a notification indicating

2454 acknowledgment shall be made in the insurer's claim file and

2455 dated. A communication made to or by a representative of an

2456 insurer with respect to a claim shall constitute communication

2457 to or by the insurer.

2458 (3)(a) Unless otherwise provided by the policy of insurance

2459 or by law, within 7 ~~14~~ days after an insurer receives proof-of-

2460 loss statements, the insurer shall begin such investigation as

2461 is reasonably necessary unless the failure to begin such

2462 investigation is caused by factors beyond the control of the

2463 insurer ~~which reasonably prevent the commencement of such~~

2464 ~~investigation~~.

2465 (b) If such investigation involves a physical inspection of

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

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

(c) Any subsequent communication with the policyholder regarding the claim must also include the name and license number of the adjuster communicating about the claim. Communication of the adjuster's name and license number may be included with other information provided to the policyholder.

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

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inspect the property.

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

(4) An insurer shall maintain:

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

(b) Claim records, including dates, of:

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

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

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

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

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2524 5. Any detailed estimate of the amount of the loss
2525 generated by the insurer's adjuster;

2526 6. The beginning and end of any tolling period provided for
2527 in subsection (8); and

2528 7. The insurer's payment or denial of the claim.

2529 (5) For purposes of this section, the term:

2530 (a) "Factors beyond the control of the insurer" means:

2531 1. Any of the following events that is the basis for the
2532 office issuing an order finding that such event renders all or
2533 specified residential property insurers reasonably unable to
2534 meet the requirements of this section in specified locations and
2535 ordering that such insurer or insurers may have additional time
2536 as specified by the office to comply with the requirements of
2537 this section: a state of emergency declared by the Governor
2538 under s. 252.36, a breach of security that must be reported
2539 under s. 501.171(3), or an information technology issue. The
2540 office may not extend the period for payment or denial of a
2541 claim for more than 30 additional days.

2542 2. Actions by the policyholder or the policyholder's
2543 representative which constitute fraud, lack of cooperation, or
2544 intentional misrepresentation regarding the claim for which
2545 benefits are owed when such actions reasonably prevent the
2546 insurer from complying with any requirement of this section.

2547 (b) "Insurer" means any residential property insurer.

2548 (7) (a) Within 60 90 days after an insurer receives notice
2549 of an initial, reopened, or supplemental property insurance
2550 claim from a policyholder, the insurer shall pay or deny such
2551 claim or a portion of the claim unless the failure to pay is
2552 caused by factors beyond the control of the insurer ~~which~~

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2553 ~~reasonably prevent such payment.~~ The insurer shall provide a
2554 reasonable explanation in writing to the policyholder of the
2555 basis in the insurance policy, in relation to the facts or
2556 applicable law, for the payment, denial, or partial denial of a
2557 claim. If the insurer's claim payment is less than specified in
2558 any insurer's detailed estimate of the amount of the loss, the
2559 insurer must provide a reasonable explanation in writing of the
2560 difference to the policyholder. Any payment of an initial or
2561 supplemental claim or portion of such claim made 60 90 days
2562 after the insurer receives notice of the claim, or made more
2563 than 15 days after the expiration of any additional timeframe
2564 provided to pay or deny a claim or a portion of a claim made
2565 pursuant to an order of the office finding there are no longer
2566 factors beyond the control of the insurer ~~which reasonably~~
2567 ~~prevented such payment,~~ whichever is later, bears interest at
2568 the rate set forth in s. 55.03. Interest begins to accrue from
2569 the date the insurer receives notice of the claim. The
2570 provisions of this subsection may not be waived, voided, or
2571 nullified by the terms of the insurance policy. If there is a
2572 right to prejudgment interest, the insured must select whether
2573 to receive prejudgment interest or interest under this
2574 subsection. Interest is payable when the claim or portion of the
2575 claim is paid. Failure to comply with this subsection
2576 constitutes a violation of this code. However, failure to comply
2577 with this subsection does not form the sole basis for a private
2578 cause of action.

2579 (8) The requirements of this section are tolled:

2580 (a) During the pendency of any mediation proceeding under
2581 s. 627.7015 or any alternative dispute resolution proceeding

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

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

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

627.70132 Notice of property insurance claim.—

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

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

627.70152 Suits arising under a property insurance policy.—

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

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

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

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

(b) ~~(c)~~ "Disputed amount" means the difference between the claimant's presuit settlement demand, not including attorney fees and costs listed in the demand, and the insurer's presuit settlement offer, not including attorney fees and costs, if part of the offer.

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

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

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

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documentation to support the information provided in the notice:

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

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

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

~~(8) ATTORNEY FEES.—~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

627.7074 Alternative procedure for resolution of disputed sinkhole insurance claims.—

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

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

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

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

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

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

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

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

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

HOMEOWNER CLAIMS

BILL OF RIGHTS

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

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policy.

YOU HAVE THE RIGHT TO:

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

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

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

4. Within 60 ~~90~~ days, subject to any dual interest noted in the policy, receive full settlement payment for your claim or payment of the undisputed portion of your claim, or your insurance company's denial of your claim.

~~5.4.~~ Receive payment of interest, as provided in s. 627.70131, Florida Statutes, from your insurance company, which begins accruing from the date your claim is filed if your insurance company does not pay full settlement of your initial, reopened, or supplemental claim or the undisputed portion of your claim or does not deny your claim within 60 ~~90~~ days

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after your claim is filed. The interest, if applicable, must be paid when your claim or the undisputed portion of your claim is paid.

~~6.5.~~ Free mediation of your disputed claim by the Florida Department of Financial Services, Division of Consumer Services, under most circumstances and subject to certain restrictions.

~~7.6.~~ Neutral evaluation of your disputed claim, if your claim is for damage caused by a sinkhole and is covered by your policy.

~~8.7.~~ Contact the Florida Department of Financial Services, Division of Consumer Services' toll-free helpline for assistance with any insurance claim or questions pertaining to the handling of your claim. You can reach the Helpline by phone at ...(toll-free phone number)..., or you can seek assistance online at the Florida Department of Financial Services, Division of Consumer Services' website at ...(website address)....

YOU ARE ADVISED TO:

1. File all claims directly with your insurance company.

2. Contact your insurance company before entering into any contract for repairs to confirm any managed repair policy provisions or optional preferred vendors.

3. Make and document emergency repairs that are necessary to prevent further damage. Keep the damaged

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property, if feasible, keep all receipts, and take photographs or video of damage before and after any repairs to provide to your insurer.

4. Carefully read any contract that requires you to pay out-of-pocket expenses or a fee that is based on a percentage of the insurance proceeds that you will receive for repairing or replacing your property.

5. Confirm that the contractor you choose is licensed to do business in Florida. You can verify a contractor's license and check to see if there are any complaints against him or her by calling the Florida Department of Business and Professional Regulation. You should also ask the contractor for references from previous work.

6. Require all contractors to provide proof of insurance before beginning repairs.

7. Take precautions if the damage requires you to leave your home, including securing your property and turning off your gas, water, and electricity, and contacting your insurance company and provide a phone number where you can be reached.

Section 21. Paragraphs (a) and (b) of subsection (2) and subsection (13) of section 627.7152, Florida Statutes, are amended to read:

627.7152 Assignment agreements.—

(2) (a) An assignment agreement must:

1. Be executed under a residential property insurance policy or under a commercial property insurance policy as that term is defined in s. 627.0625(1), issued on or after July 1,

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2019, and before January 1, 2023.

2. Be in writing and executed by and between the assignor and the assignee.

~~3.2.~~ Contain a provision that allows the assignor to rescind the assignment agreement without a penalty or fee by submitting a written notice of rescission signed by the assignor to the assignee within 14 days after the execution of the agreement, at least 30 days after the date work on the property is scheduled to commence if the assignee has not substantially performed, or at least 30 days after the execution of the agreement if the agreement does not contain a commencement date and the assignee has not begun substantial work on the property.

~~4.3.~~ Contain a provision requiring the assignee to provide a copy of the executed assignment agreement to the insurer within 3 business days after the date on which the assignment agreement is executed or the date on which work begins, whichever is earlier. Delivery of the copy of the assignment agreement to the insurer may be made:

a. By personal service, overnight delivery, or electronic transmission, with evidence of delivery in the form of a receipt or other paper or electronic acknowledgment by the insurer; or

b. To the location designated for receipt of such agreements as specified in the policy.

~~5.4.~~ Contain a written, itemized, per-unit cost estimate of the services to be performed by the assignee.

~~6.5.~~ Relate only to work to be performed by the assignee for services to protect, repair, restore, or replace a dwelling or structure or to mitigate against further damage to such property.

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2901 ~~7.6.~~ Contain the following notice in 18-point uppercase and
2902 boldfaced type:

2903
2904 YOU ARE AGREEING TO GIVE UP CERTAIN RIGHTS YOU HAVE
2905 UNDER YOUR INSURANCE POLICY TO A THIRD PARTY, WHICH
2906 MAY RESULT IN LITIGATION AGAINST YOUR INSURER. PLEASE
2907 READ AND UNDERSTAND THIS DOCUMENT BEFORE SIGNING IT.
2908 YOU HAVE THE RIGHT TO CANCEL THIS AGREEMENT WITHOUT
2909 PENALTY WITHIN 14 DAYS AFTER THE DATE THIS AGREEMENT
2910 IS EXECUTED, AT LEAST 30 DAYS AFTER THE DATE WORK ON
2911 THE PROPERTY IS SCHEDULED TO COMMENCE IF THE ASSIGNEE
2912 HAS NOT SUBSTANTIALLY PERFORMED, OR AT LEAST 30 DAYS
2913 AFTER THE EXECUTION OF THE AGREEMENT IF THE AGREEMENT
2914 DOES NOT CONTAIN A COMMENCEMENT DATE AND THE ASSIGNEE
2915 HAS NOT BEGUN SUBSTANTIAL WORK ON THE PROPERTY.
2916 HOWEVER, YOU ARE OBLIGATED FOR PAYMENT OF ANY
2917 CONTRACTED WORK PERFORMED BEFORE THE AGREEMENT IS
2918 RESCINDED. THIS AGREEMENT DOES NOT CHANGE YOUR
2919 OBLIGATION TO PERFORM THE DUTIES REQUIRED UNDER YOUR
2920 PROPERTY INSURANCE POLICY.

2921
2922 ~~8.7.~~ Contain a provision requiring the assignee to
2923 indemnify and hold harmless the assignor from all liabilities,
2924 damages, losses, and costs, including, but not limited to,
2925 attorney fees.

2926 (b) An assignment agreement may not contain:

- 2927 1. A penalty or fee for rescission under subparagraph (a)3.
2928 ~~(a)2.~~;
2929 2. A check or mortgage processing fee;

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3. A penalty or fee for cancellation of the agreement; or

4. An administrative fee.

(13) Except as provided in subsection (11), a policyholder may not assign, in whole or in part, any post-loss insurance benefit under any residential property insurance policy or under any commercial property insurance policy as that term is defined in s. 627.0625(1), issued on or after January 1, 2023. An attempt to assign post-loss property insurance benefits under such a policy is void, invalid, and unenforceable ~~This section applies to an assignment agreement executed on or after July 1, 2019.~~

Section 22. Paragraph (f) of subsection (3) of section 627.7154, Florida Statutes, is amended, and paragraph (g) is added to that subsection, to read:

627.7154 Property Insurer Stability Unit; duties and required reports.—

(3) The insurer stability unit shall, at a minimum:

(f) On January 1 and July 1 of each year, provide a report on the status of the homeowners' and condominium unit owners' insurance market to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of the Senate, the Minority Leader of the House of Representatives, and the chairs of the legislative committees with jurisdiction over matters of insurance showing:

1. Litigation practices and outcomes of insurance companies.

2. Percentage of homeowners and condominium unit owners who obtain insurance in the voluntary market.

3. Percentage of homeowners and condominium unit owners who

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2959 obtain insurance from the Citizens Property Insurance
2960 Corporation.

2961 4. Profitability of the homeowners' and condominium unit
2962 owners' lines of insurance in this state, including a comparison
2963 with similar lines of insurance in other hurricane-prone states
2964 and with the national average.

2965 5. Average premiums charged for homeowners' and condominium
2966 unit owners' insurance in each of the 67 counties in this state.

2967 6. Results of the latest annual catastrophe stress tests of
2968 all domestic insurers and insurers that are commercially
2969 domiciled in this state.

2970 7. The availability of reinsurance in the personal lines
2971 insurance market.

2972 8. The number of property and casualty insurance carriers
2973 referred to the insurer stability unit for enhanced monitoring,
2974 including the reason for the referral.

2975 9. The number of referrals to the insurer stability unit
2976 which were deemed appropriate for enhanced monitoring, including
2977 the reason for the monitoring.

2978 10. The name of any insurer against which delinquency
2979 proceedings were instituted, including the grounds for
2980 rehabilitation pursuant to s. 631.051 and the date that each
2981 insurer was deemed impaired of capital or surplus, as the terms
2982 impairment of capital and impairment of surplus are defined in
2983 s. 631.011, or insolvent, as the term insolvency is defined in
2984 s. 631.011; a concise statement of the circumstances that led to
2985 the insurer's delinquency; and a summary of the actions taken by
2986 the insurer and the office to avoid delinquency.

2987 11. The name of any insurer that is the subject of a market

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conduct examination that found the insurer exhibited a pattern
or practice of one or more willful unfair insurance trade
practice violations with regard to its use of appraisal,
including, but not limited to, compelling insureds to
participate in appraisal under a property insurance policy in
order to secure full payment or settlement of claims, and a
summary of the findings of such market conduct examination.

12. Recommendations for improvements to the regulation of
the homeowners' and condominium unit owners' insurance market
and an indication of whether such improvements require any
change to existing laws or rules.

13.12. Identification of any trends that may warrant
attention in the future.

(g) Publish on the office's website a list of all insurers
referenced in subparagraph (f)11. and a link to the market
conduct reports regarding such insurers.

Section 23. Subsection (3) of section 631.252, Florida
Statutes, is amended to read:

631.252 Continuation of coverage.—

(3) The 30-day coverage continuation period provided in
paragraph (1)(a) may not ~~in no event~~ be extended unless the
office determines, based on a reasonable belief, that market
conditions are such that policies of residential property
insurance coverage cannot be placed with an authorized insurer
within 30 days and that an additional 15 days is needed to place
such coverage; and failure of actual notice to the policyholder
of the insolvency of the insurer, of commencement of a
delinquency proceeding, or of expiration of the extension period
does not affect such expiration.

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Section 24. Present subsections (6) through (8) of section 768.79, Florida Statutes, are redesignated as subsections (7) through (9), respectively, and a new subsection (6) is added to that section, to read:

768.79 Offer of judgment and demand for judgment.—

(6) For a breach of contract action, a property insurer may make a joint offer of judgment or settlement that is conditioned on the mutual acceptance of all the joint offerees.

Section 25. For the 2022-2023 fiscal year, the sum of \$1,757,982 in recurring funds is appropriated from the Insurance Regulatory Trust Fund to the Office of Insurance Regulation with associated salary rate of 844,464. From these funds, \$1,356,615 is appropriated in the Salaries and Benefits appropriation category, \$400,000 is appropriated in the Other Personal Services appropriation category, and \$1,367 is appropriated in the Transfer to Department of Management Services - Human Resources Services Purchased Per Statewide Contract appropriation category. The funds shall be utilized for the recruitment and retention of personnel within the office to ensure the ongoing monitoring of insurance company products and services, as well as the financial condition of licensed insurance companies. The funds shall be used to implement this act.

Section 26. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.