

20131770er

1  
2 An act relating to property insurance; amending s.  
3 215.555, F.S., relating to the Florida Hurricane  
4 Catastrophe Fund; revising the definition of the term  
5 "corporation"; deleting an outdated coverage level;  
6 revising the exemption of medical malpractice  
7 insurance premiums from emergency assessments if  
8 certain revenues are determined to be insufficient to  
9 fund the obligations, costs, and expenses of the  
10 Florida Hurricane Catastrophe Fund and the Florida  
11 Hurricane Catastrophe Fund Finance Corporation;  
12 changing the name of the Florida Hurricane Catastrophe  
13 Fund Finance Corporation; deleting provisions relating  
14 to temporary emergency options for additional  
15 coverage; amending s. 626.752, F.S.; exempting  
16 Citizens Property Insurance Corporation from exchange  
17 of business limitations and restrictions when placing  
18 business with authorized insurers; amending s.  
19 626.854, F.S.; revising the restrictions on public  
20 adjuster compensation, payment, commission, fee, or  
21 any other thing of value; providing penalties;  
22 deleting a provision requiring the public adjuster to  
23 ensure prompt notice of property loss claims;  
24 requiring a public adjuster to ensure that prompt  
25 notice is given of a claim to the insurer; requiring a  
26 public adjuster to meet or communicate with the  
27 insurer for a specified purpose; prohibiting a public  
28 adjuster from acquiring any interest in salvaged  
29 property; providing an exception; providing

20131770er

30 legislative intent; amending s. 627.0628, F.S.;

31 revising the membership of the Florida Commission on

32 Hurricane Loss Projection Methodology; amending s.

33 627.0629, F.S.; conforming a cross-reference; amending

34 s. 627.351, F.S.; providing that certain residential

35 structures are not eligible for coverage by the

36 corporation after specified dates; providing an

37 exception; prohibiting the corporation from covering

38 any new construction of a major structure, or

39 substantial improvements on any major structure,

40 commencing on or after July 1, 2014, that is seaward

41 of the coastal construction control line or is within

42 the Coastal Barrier Resources System; deleting a

43 provision that limits the amount that a public

44 adjuster may charge, agree to, or accept as

45 compensation with respect to a claim filed under a

46 policy of the Citizens Property Insurance Corporation;

47 revising the membership of the board of governors of

48 the corporation; restricting the eligibility of a risk

49 for a renewal policy issued by the corporation under

50 certain circumstances; revising provisions allowing a

51 policyholder removed from the corporation to remain

52 eligible for coverage under certain circumstances;

53 requiring disclosure of potential corporation

54 surcharges and policyholder obligations to try to

55 obtain private market coverage; revising the duties

56 and responsibilities of the internal auditor of the

57 corporation; authorizing insurers taking out,

58 assuming, or removing policies from the corporation to

20131770er

59 use the corporation's policy forms and endorsements  
60 for a specified time without approval by the Office of  
61 Insurance Regulation; establishing the Office of  
62 Inspector General within the corporation; providing  
63 for appointment, qualifications, duties, and  
64 responsibilities of the inspector general; requiring  
65 the corporation to prepare a report for each calendar  
66 year relating to the loss ratio attributable to losses  
67 that are not catastrophic losses for residential  
68 coverage provided by the corporation; revising  
69 provisions relating to purchases by the corporation;  
70 providing that the corporation is subject to state  
71 agency purchasing requirements; requiring the  
72 corporation to provide notice of purchasing decisions;  
73 providing procedures for protesting such decisions;  
74 providing applicability; creating s. 627.3518, F.S.;  
75 providing purpose; providing definitions; requiring  
76 the creation of a clearinghouse program within the  
77 corporation; specifying the purposes of the program;  
78 requiring the corporation to provide a report to the  
79 Legislature; specifying certain rights and  
80 responsibilities with respect to the program;  
81 authorizing the corporation to take specified actions  
82 in establishing the program; providing conditions and  
83 requirements relating to the participation of insurers  
84 in the program; providing conditions, requirements,  
85 limitations, and procedures applicable to offers of  
86 coverage with respect to applicants for coverage with  
87 the corporation and existing policyholders of the

20131770er

88 corporation; providing requirements for certain  
89 independent insurance agents and exclusive agents with  
90 respect to submitting applications for coverage or  
91 policies for renewal to the program; providing for  
92 applicability and construction; creating s. 627.35191,  
93 F.S.; requiring the Florida Hurricane Catastrophe Fund  
94 and Citizens Property Insurance Corporation to each  
95 submit reports annually to the Legislature and the  
96 Financial Services Commission relating to aggregate  
97 net probable maximum losses, financing options, and  
98 potential assessments; providing effective dates.

99

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

101

102 Section 1. Effective June 1, 2013, paragraph (n) of  
103 subsection (2), paragraph (b) of subsection (4), paragraphs (b)  
104 and (d) of subsection (6), and present subsection (16) of  
105 section 215.555, Florida Statutes, are amended, and subsections  
106 (17) and (18) of that section are renumbered as subsections (16)  
107 and (17), respectively, to read:

108 215.555 Florida Hurricane Catastrophe Fund.—

109 (2) DEFINITIONS.—As used in this section:

110 (n) "Corporation" means the State Board of Administration  
111 ~~Florida Hurricane Catastrophe Fund~~ Finance Corporation created  
112 in paragraph (6) (d).

113 (4) REIMBURSEMENT CONTRACTS.—

114 (b)1. The contract shall contain a promise by the board to  
115 reimburse the insurer for 45 percent, 75 percent, or 90 percent  
116 of its losses from each covered event in excess of the insurer's

20131770er

117 retention, plus 5 percent of the reimbursed losses to cover loss  
118 adjustment expenses.

119 2. The insurer must elect one of the percentage coverage  
120 levels specified in this paragraph and may, upon renewal of a  
121 reimbursement contract, elect a lower percentage coverage level  
122 if no revenue bonds issued under subsection (6) after a covered  
123 event are outstanding, or elect a higher percentage coverage  
124 level, regardless of whether or not revenue bonds are  
125 outstanding. All members of an insurer group must elect the same  
126 percentage coverage level. Any joint underwriting association,  
127 risk apportionment plan, or other entity created under s.  
128 627.351 must elect the 90-percent coverage level.

129 3. The contract shall provide that reimbursement amounts  
130 shall not be reduced by reinsurance paid or payable to the  
131 insurer from other sources.

132 ~~4. Notwithstanding any other provision contained in this~~  
133 ~~section, the board shall make available to insurers that~~  
134 ~~purchased coverage provided by this subparagraph in 2008,~~  
135 ~~insurers qualifying as limited apportionment companies under s.~~  
136 ~~627.351(6)(c), and insurers that have been approved to~~  
137 ~~participate in the Insurance Capital Build-Up Incentive Program~~  
138 ~~pursuant to s. 215.5595 a contract or contract addendum that~~  
139 ~~provides an additional amount of reimbursement coverage of up to~~  
140 ~~\$10 million. The premium to be charged for this additional~~  
141 ~~reimbursement coverage shall be 50 percent of the additional~~  
142 ~~reimbursement coverage provided, which shall include one prepaid~~  
143 ~~reinstatement. The minimum retention level that an eligible~~  
144 ~~participating insurer must retain associated with this~~  
145 ~~additional coverage layer is 30 percent of the insurer's surplus~~

20131770er

146 ~~as of December 31, 2008, for the 2009-2010 contract year; as of~~  
147 ~~December 31, 2009, for the 2010-2011 contract year; and as of~~  
148 ~~December 31, 2010, for the 2011-2012 contract year. This~~  
149 ~~coverage shall be in addition to all other coverage that may be~~  
150 ~~provided under this section. The coverage provided by the fund~~  
151 ~~under this subparagraph shall be in addition to the claims-~~  
152 ~~paying capacity as defined in subparagraph (c)1., but only with~~  
153 ~~respect to those insurers that select the additional coverage~~  
154 ~~option and meet the requirements of this subparagraph. The~~  
155 ~~claims-paying capacity with respect to all other participating~~  
156 ~~insurers and limited apportionment companies that do not select~~  
157 ~~the additional coverage option shall be limited to their~~  
158 ~~reimbursement premium's proportionate share of the actual~~  
159 ~~claims-paying capacity otherwise defined in subparagraph (c)1.~~  
160 ~~and as provided for under the terms of the reimbursement~~  
161 ~~contract. The optional coverage retention as specified shall be~~  
162 ~~accessed before the mandatory coverage under the reimbursement~~  
163 ~~contract, but once the limit of coverage selected under this~~  
164 ~~option is exhausted, the insurer's retention under the mandatory~~  
165 ~~coverage will apply. This coverage will apply and be paid~~  
166 ~~concurrently with mandatory coverage. This subparagraph expires~~  
167 ~~on May 31, 2012.~~

168 (6) REVENUE BONDS.—

169 (b) *Emergency assessments*—

170 1. If the board determines that the amount of revenue  
171 produced under subsection (5) is insufficient to fund the  
172 obligations, costs, and expenses of the fund and the  
173 corporation, including repayment of revenue bonds and that  
174 portion of the debt service coverage not met by reimbursement

20131770er

175 premiums, the board shall direct the Office of Insurance  
176 Regulation to levy, by order, an emergency assessment on direct  
177 premiums for all property and casualty lines of business in this  
178 state, including property and casualty business of surplus lines  
179 insurers regulated under part VIII of chapter 626, but not  
180 including any workers' compensation premiums or medical  
181 malpractice premiums. As used in this subsection, the term  
182 "property and casualty business" includes all lines of business  
183 identified on Form 2, Exhibit of Premiums and Losses, in the  
184 annual statement required of authorized insurers by s. 624.424  
185 and any rule adopted under this section, except for those lines  
186 identified as accident and health insurance and except for  
187 policies written under the National Flood Insurance Program. The  
188 assessment shall be specified as a percentage of direct written  
189 premium and is subject to annual adjustments by the board in  
190 order to meet debt obligations. The same percentage shall apply  
191 to all policies in lines of business subject to the assessment  
192 issued or renewed during the 12-month period beginning on the  
193 effective date of the assessment.

194 2. A premium is not subject to an annual assessment under  
195 this paragraph in excess of 6 percent of premium with respect to  
196 obligations arising out of losses attributable to any one  
197 contract year, and a premium is not subject to an aggregate  
198 annual assessment under this paragraph in excess of 10 percent  
199 of premium. An annual assessment under this paragraph shall  
200 continue as long as the revenue bonds issued with respect to  
201 which the assessment was imposed are outstanding, including any  
202 bonds the proceeds of which were used to refund the revenue  
203 bonds, unless adequate provision has been made for the payment

20131770er

204 of the bonds under the documents authorizing issuance of the  
205 bonds.

206 3. Emergency assessments shall be collected from  
207 policyholders. Emergency assessments shall be remitted by  
208 insurers as a percentage of direct written premium for the  
209 preceding calendar quarter as specified in the order from the  
210 Office of Insurance Regulation. The office shall verify the  
211 accurate and timely collection and remittance of emergency  
212 assessments and shall report the information to the board in a  
213 form and at a time specified by the board. Each insurer  
214 collecting assessments shall provide the information with  
215 respect to premiums and collections as may be required by the  
216 office to enable the office to monitor and verify compliance  
217 with this paragraph.

218 4. With respect to assessments of surplus lines premiums,  
219 each surplus lines agent shall collect the assessment at the  
220 same time as the agent collects the surplus lines tax required  
221 by s. 626.932, and the surplus lines agent shall remit the  
222 assessment to the Florida Surplus Lines Service Office created  
223 by s. 626.921 at the same time as the agent remits the surplus  
224 lines tax to the Florida Surplus Lines Service Office. The  
225 emergency assessment on each insured procuring coverage and  
226 filing under s. 626.938 shall be remitted by the insured to the  
227 Florida Surplus Lines Service Office at the time the insured  
228 pays the surplus lines tax to the Florida Surplus Lines Service  
229 Office. The Florida Surplus Lines Service Office shall remit the  
230 collected assessments to the fund or corporation as provided in  
231 the order levied by the Office of Insurance Regulation. The  
232 Florida Surplus Lines Service Office shall verify the proper



20131770er

233 application of such emergency assessments and shall assist the  
234 board in ensuring the accurate and timely collection and  
235 remittance of assessments as required by the board. The Florida  
236 Surplus Lines Service Office shall annually calculate the  
237 aggregate written premium on property and casualty business,  
238 other than workers' compensation and medical malpractice,  
239 procured through surplus lines agents and insureds procuring  
240 coverage and filing under s. 626.938 and shall report the  
241 information to the board in a form and at a time specified by  
242 the board.

243         5. Any assessment authority not used for a particular  
244 contract year may be used for a subsequent contract year. If,  
245 for a subsequent contract year, the board determines that the  
246 amount of revenue produced under subsection (5) is insufficient  
247 to fund the obligations, costs, and expenses of the fund and the  
248 corporation, including repayment of revenue bonds and that  
249 portion of the debt service coverage not met by reimbursement  
250 premiums, the board shall direct the Office of Insurance  
251 Regulation to levy an emergency assessment up to an amount not  
252 exceeding the amount of unused assessment authority from a  
253 previous contract year or years, plus an additional 4 percent  
254 provided that the assessments in the aggregate do not exceed the  
255 limits specified in subparagraph 2.

256         6. The assessments otherwise payable to the corporation  
257 under this paragraph shall be paid to the fund unless and until  
258 the Office of Insurance Regulation and the Florida Surplus Lines  
259 Service Office have received from the corporation and the fund a  
260 notice, which shall be conclusive and upon which they may rely  
261 without further inquiry, that the corporation has issued bonds

20131770er

262 and the fund has no agreements in effect with local governments  
263 under paragraph (c). On or after the date of the notice and  
264 until the date the corporation has no bonds outstanding, the  
265 fund shall have no right, title, or interest in or to the  
266 assessments, except as provided in the fund's agreement with the  
267 corporation.

268 7. Emergency assessments are not premium and are not  
269 subject to the premium tax, to the surplus lines tax, to any  
270 fees, or to any commissions. An insurer is liable for all  
271 assessments that it collects and must treat the failure of an  
272 insured to pay an assessment as a failure to pay the premium. An  
273 insurer is not liable for uncollectible assessments.

274 8. When an insurer is required to return an unearned  
275 premium, it shall also return any collected assessment  
276 attributable to the unearned premium. A credit adjustment to the  
277 collected assessment may be made by the insurer with regard to  
278 future remittances that are payable to the fund or corporation,  
279 but the insurer is not entitled to a refund.

280 9. When a surplus lines insured or an insured who has  
281 procured coverage and filed under s. 626.938 is entitled to the  
282 return of an unearned premium, the Florida Surplus Lines Service  
283 Office shall provide a credit or refund to the agent or such  
284 insured for the collected assessment attributable to the  
285 unearned premium prior to remitting the emergency assessment  
286 collected to the fund or corporation.

287 10. The exemption of medical malpractice insurance premiums  
288 from emergency assessments under this paragraph is repealed May  
289 31, 2016 ~~2013~~, and medical malpractice insurance premiums shall  
290 be subject to emergency assessments attributable to loss events

20131770er

291 occurring in the contract years commencing on June 1, 2016 ~~2013~~.

292 (d) State Board of Administration ~~Florida Hurricane~~  
293 ~~Catastrophe Fund Finance Corporation.~~-

294 1. In addition to the findings and declarations in  
295 subsection (1), the Legislature also finds and declares that:

296 a. The public benefits corporation created under this  
297 paragraph will provide a mechanism necessary for the cost-  
298 effective and efficient issuance of bonds. This mechanism will  
299 eliminate unnecessary costs in the bond issuance process,  
300 thereby increasing the amounts available to pay reimbursement  
301 for losses to property sustained as a result of hurricane  
302 damage.

303 b. The purpose of such bonds is to fund reimbursements  
304 through the Florida Hurricane Catastrophe Fund to pay for the  
305 costs of construction, reconstruction, repair, restoration, and  
306 other costs associated with damage to properties of  
307 policyholders of covered policies due to the occurrence of a  
308 hurricane.

309 c. The efficacy of the financing mechanism will be enhanced  
310 by the corporation's ownership of the assessments, by the  
311 insulation of the assessments from possible bankruptcy  
312 proceedings, and by covenants of the state with the  
313 corporation's bondholders.

314 2.a. There is created a public benefits corporation, which  
315 is an instrumentality of the state, to be known as the State  
316 Board of Administration ~~Florida Hurricane Catastrophe Fund~~  
317 Finance Corporation.

318 b. The corporation shall operate under a five-member board  
319 of directors consisting of the Governor or a designee, the Chief

20131770er

320 Financial Officer or a designee, the Attorney General or a  
321 designee, the director of the Division of Bond Finance of the  
322 State Board of Administration, and the Chief Operating Officer  
323 ~~senior employee of the State Board of Administration responsible~~  
324 ~~for operations~~ of the Florida Hurricane Catastrophe Fund.

325 c. The corporation has all of the powers of corporations  
326 under chapter 607 and under chapter 617, subject only to the  
327 provisions of this subsection.

328 d. The corporation may issue bonds and engage in such other  
329 financial transactions as are necessary to provide sufficient  
330 funds to achieve the purposes of this section.

331 e. The corporation may invest in any of the investments  
332 authorized under s. 215.47.

333 f. There shall be no liability on the part of, and no cause  
334 of action shall arise against, any board members or employees of  
335 the corporation for any actions taken by them in the performance  
336 of their duties under this paragraph.

337 3.a. In actions under chapter 75 to validate any bonds  
338 issued by the corporation, the notice required by s. 75.06 shall  
339 be published in two newspapers of general circulation in the  
340 state, and the complaint and order of the court shall be served  
341 only on the State Attorney of the Second Judicial Circuit.

342 b. The state hereby covenants with holders of bonds of the  
343 corporation that the state will not repeal or abrogate the power  
344 of the board to direct the Office of Insurance Regulation to  
345 levy the assessments and to collect the proceeds of the revenues  
346 pledged to the payment of such bonds as long as any such bonds  
347 remain outstanding unless adequate provision has been made for  
348 the payment of such bonds pursuant to the documents authorizing

20131770er

349 the issuance of such bonds.

350 4. The bonds of the corporation are not a debt of the state  
351 or of any political subdivision, and neither the state nor any  
352 political subdivision is liable on such bonds. The corporation  
353 does not have the power to pledge the credit, the revenues, or  
354 the taxing power of the state or of any political subdivision.  
355 The credit, revenues, or taxing power of the state or of any  
356 political subdivision shall not be deemed to be pledged to the  
357 payment of any bonds of the corporation.

358 5.a. The property, revenues, and other assets of the  
359 corporation; the transactions and operations of the corporation  
360 and the income from such transactions and operations; and all  
361 bonds issued under this paragraph and interest on such bonds are  
362 exempt from taxation by the state and any political subdivision,  
363 including the intangibles tax under chapter 199 and the income  
364 tax under chapter 220. This exemption does not apply to any tax  
365 imposed by chapter 220 on interest, income, or profits on debt  
366 obligations owned by corporations other than the State Board of  
367 Administration ~~Florida Hurricane Catastrophe Fund~~ Finance  
368 Corporation.

369 b. All bonds of the corporation shall be and constitute  
370 legal investments without limitation for all public bodies of  
371 this state; for all banks, trust companies, savings banks,  
372 savings associations, savings and loan associations, and  
373 investment companies; for all administrators, executors,  
374 trustees, and other fiduciaries; for all insurance companies and  
375 associations and other persons carrying on an insurance  
376 business; and for all other persons who are now or may hereafter  
377 be authorized to invest in bonds or other obligations of the

20131770er

378 state and shall be and constitute eligible securities to be  
379 deposited as collateral for the security of any state, county,  
380 municipal, or other public funds. This sub-subparagraph shall be  
381 considered as additional and supplemental authority and shall  
382 not be limited without specific reference to this sub-  
383 subparagraph.

384 6. The corporation and its corporate existence shall  
385 continue until terminated by law; however, no such law shall  
386 take effect as long as the corporation has bonds outstanding  
387 unless adequate provision has been made for the payment of such  
388 bonds pursuant to the documents authorizing the issuance of such  
389 bonds. Upon termination of the existence of the corporation, all  
390 of its rights and properties in excess of its obligations shall  
391 pass to and be vested in the state.

392 7. The State Board of Administration Finance Corporation is  
393 for all purposes the successor to the Florida Hurricane  
394 Catastrophe Fund Finance Corporation.

395 ~~(16) TEMPORARY EMERGENCY OPTIONS FOR ADDITIONAL COVERAGE.—~~

396 ~~(a) Findings and intent.—~~

397 ~~1. The Legislature finds that:~~

398 ~~a. Because of temporary disruptions in the market for~~  
399 ~~eatastrophic reinsurance, many property insurers were unable to~~  
400 ~~procure reinsurance for the 2006 hurricane season with an~~  
401 ~~attachment point below the insurers' respective Florida~~  
402 ~~Hurricane Catastrophe Fund attachment points, were unable to~~  
403 ~~procure sufficient amounts of such reinsurance, or were able to~~  
404 ~~procure such reinsurance only by incurring substantially higher~~  
405 ~~costs than in prior years.~~

406 ~~b. The reinsurance market problems were responsible, at~~

20131770er

407 ~~least in part, for substantial premium increases to many~~  
408 ~~consumers and increases in the number of policies issued by the~~  
409 ~~Citizens Property Insurance Corporation.~~

410 ~~e. It is likely that the reinsurance market disruptions~~  
411 ~~will not significantly abate prior to the 2007 hurricane season.~~

412 ~~2. It is the intent of the Legislature to create a~~  
413 ~~temporary emergency program, applicable to the 2007, 2008, and~~  
414 ~~2009 hurricane seasons, to address these market disruptions and~~  
415 ~~enable insurers, at their option, to procure additional coverage~~  
416 ~~from the Florida Hurricane Catastrophe Fund.~~

417 ~~(b) Applicability of other provisions of this section. All~~  
418 ~~provisions of this section and the rules adopted under this~~  
419 ~~section apply to the program created by this subsection unless~~  
420 ~~specifically superseded by this subsection.~~

421 ~~(c) Optional coverage. For the contract year commencing~~  
422 ~~June 1, 2007, and ending May 31, 2008, the contract year~~  
423 ~~commencing June 1, 2008, and ending May 31, 2009, and the~~  
424 ~~contract year commencing June 1, 2009, and ending May 31, 2010,~~  
425 ~~the board shall offer for each of such years the optional~~  
426 ~~coverage as provided in this subsection.~~

427 ~~(d) Additional definitions. As used in this subsection, the~~  
428 ~~term:~~

429 ~~1. "TEACO options" means the temporary emergency additional~~  
430 ~~coverage options created under this subsection.~~

431 ~~2. "TEACO insurer" means an insurer that has opted to~~  
432 ~~obtain coverage under the TEACO options in addition to the~~  
433 ~~coverage provided to the insurer under its reimbursement~~  
434 ~~contract.~~

435 ~~3. "TEACO reimbursement premium" means the premium charged~~

20131770er

436 ~~by the fund for coverage provided under the TEACO options.~~

437 ~~4. "TEACO retention" means the amount of losses below which~~  
438 ~~a TEACO insurer is not entitled to reimbursement from the fund~~  
439 ~~under the TEACO option selected. A TEACO insurer's retention~~  
440 ~~options shall be calculated as follows:~~

441 ~~a. The board shall calculate and report to each TEACO~~  
442 ~~insurer the TEACO retention multiples. There shall be three~~  
443 ~~TEACO retention multiples for defining coverage. Each multiple~~  
444 ~~shall be calculated by dividing \$3 billion, \$4 billion, or \$5~~  
445 ~~billion by the total estimated mandatory FHCF reimbursement~~  
446 ~~premium assuming all insurers selected the 90 percent coverage~~  
447 ~~level.~~

448 ~~b. The TEACO retention multiples as determined under sub-~~  
449 ~~subparagraph a. shall be adjusted to reflect the coverage level~~  
450 ~~elected by the insurer. For insurers electing the 90 percent~~  
451 ~~coverage level, the adjusted retention multiple is 100 percent~~  
452 ~~of the amount determined under sub-subparagraph a. For insurers~~  
453 ~~electing the 75 percent coverage level, the retention multiple~~  
454 ~~is 120 percent of the amount determined under sub-subparagraph~~  
455 ~~a. For insurers electing the 45 percent coverage level, the~~  
456 ~~adjusted retention multiple is 200 percent of the amount~~  
457 ~~determined under sub-subparagraph a.~~

458 ~~c. An insurer shall determine its provisional TEACO~~  
459 ~~retention by multiplying its estimated mandatory FHCF~~  
460 ~~reimbursement premium by the applicable adjusted TEACO retention~~  
461 ~~multiple and shall determine its actual TEACO retention by~~  
462 ~~multiplying its actual mandatory FHCF reimbursement premium by~~  
463 ~~the applicable adjusted TEACO retention multiple.~~

464 ~~d. For TEACO insurers who experience multiple covered~~



20131770er

465 ~~events causing loss during the contract year, the insurer's full~~  
466 ~~TEACO retention shall be applied to each of the covered events~~  
467 ~~causing the two largest losses for that insurer. For other~~  
468 ~~covered events resulting in losses, the TEACO option does not~~  
469 ~~apply and the insurer's retention shall be one-third of the full~~  
470 ~~retention as calculated under paragraph (2) (e).~~

471 ~~5. "TEACO addendum" means an addendum to the reimbursement~~  
472 ~~contract reflecting the obligations of the fund and TEACO~~  
473 ~~insurers under the program created by this subsection.~~

474 ~~6. "FHCF" means the Florida Hurricane Catastrophe Fund.~~  
475 ~~(c) TEACO addendum.—~~

476 ~~1. The TEACO addendum shall provide for reimbursement of~~  
477 ~~TEACO insurers for covered events occurring during the contract~~  
478 ~~year, in exchange for the TEACO reimbursement premium paid into~~  
479 ~~the fund under paragraph (f). Any insurer writing covered~~  
480 ~~policies has the option of choosing to accept the TEACO addendum~~  
481 ~~for any of the 3 contract years that the coverage is offered.~~

482 ~~2. The TEACO addendum shall contain a promise by the board~~  
483 ~~to reimburse the TEACO insurer for 45 percent, 75 percent, or 90~~  
484 ~~percent of its losses from each covered event in excess of the~~  
485 ~~insurer's TEACO retention, plus 5 percent of the reimbursed~~  
486 ~~losses to cover loss adjustment expenses. The percentage shall~~  
487 ~~be the same as the coverage level selected by the insurer under~~  
488 ~~paragraph (4) (b).~~

489 ~~3. The TEACO addendum shall provide that reimbursement~~  
490 ~~amounts shall not be reduced by reinsurance paid or payable to~~  
491 ~~the insurer from other sources.~~

492 ~~4. The TEACO addendum shall also provide that the~~  
493 ~~obligation of the board with respect to all TEACO addenda shall~~

20131770er

494 ~~not exceed an amount equal to two times the difference between~~  
495 ~~the industry retention level calculated under paragraph (2) (c)~~  
496 ~~and the \$3 billion, \$4 billion, or \$5 billion industry TEACO~~  
497 ~~retention level options actually selected, but in no event may~~  
498 ~~the board's obligation exceed the actual claims-paying capacity~~  
499 ~~of the fund plus the additional capacity created in paragraph~~  
500 ~~(g). If the actual claims-paying capacity and the additional~~  
501 ~~capacity created under paragraph (g) fall short of the board's~~  
502 ~~obligations under the reimbursement contract, each insurer's~~  
503 ~~share of the fund's capacity shall be prorated based on the~~  
504 ~~premium an insurer pays for its mandatory reimbursement coverage~~  
505 ~~and the premium paid for its optional TEACO coverage as each~~  
506 ~~such premium bears to the total premiums paid to the fund times~~  
507 ~~the available capacity.~~

508 ~~5. The priorities, schedule, and method of reimbursements~~  
509 ~~under the TEACO addendum shall be the same as provided under~~  
510 ~~subsection (4).~~

511 ~~6. A TEACO insurer's maximum reimbursement for a single~~  
512 ~~event shall be equal to the product of multiplying its mandatory~~  
513 ~~FHCF premium by the difference between its FHCF retention~~  
514 ~~multiple and its TEACO retention multiple under the TEACO option~~  
515 ~~selected and by the coverage selected under paragraph (4) (b),~~  
516 ~~plus an additional 5 percent for loss adjustment expenses. A~~  
517 ~~TEACO insurer's maximum reimbursement under the TEACO option~~  
518 ~~selected for a TEACO insurer's two largest events shall be twice~~  
519 ~~its maximum reimbursement for a single event.~~

520 ~~(f) TEACO reimbursement premiums.—~~

521 ~~1. Each TEACO insurer shall pay to the fund, in the manner~~  
522 ~~and at the time provided in the reimbursement contract for~~

20131770er

523 ~~payment of reimbursement premiums, a TEACO reimbursement premium~~  
524 ~~calculated as specified in this paragraph.~~

525 ~~2. The insurer's TEACO reimbursement premium associated~~  
526 ~~with the \$3 billion retention option shall be equal to 85~~  
527 ~~percent of a TEACO insurer's maximum reimbursement for a single~~  
528 ~~event as calculated under subparagraph (c)6. The TEACO~~  
529 ~~reimbursement premium associated with the \$4 billion retention~~  
530 ~~option shall be equal to 80 percent of a TEACO insurer's maximum~~  
531 ~~reimbursement for a single event as calculated under~~  
532 ~~subparagraph (c)6. The TEACO premium associated with the \$5~~  
533 ~~billion retention option shall be equal to 75 percent of a TEACO~~  
534 ~~insurer's maximum reimbursement for a single event as calculated~~  
535 ~~under subparagraph (c)6.~~

536 ~~(g) Effect on claims paying capacity of the fund. For the~~  
537 ~~contract term commencing June 1, 2007, the contract year~~  
538 ~~commencing June 1, 2008, and the contract term beginning June 1,~~  
539 ~~2009, the program created by this subsection shall increase the~~  
540 ~~claims-paying capacity of the fund as provided in subparagraph~~  
541 ~~(4)(c)1. by an amount equal to two times the difference between~~  
542 ~~the industry retention level calculated under paragraph (2)(c)~~  
543 ~~and the \$3 billion industry TEACO retention level specified in~~  
544 ~~sub-subparagraph (d)4.a. The additional capacity shall apply~~  
545 ~~only to the additional coverage provided by the TEACO option and~~  
546 ~~shall not otherwise affect any insurer's reimbursement from the~~  
547 ~~fund.~~

548 Section 2. Subsection (4) of section 626.752, Florida  
549 Statutes, is amended to read:

550 626.752 Exchange of business.—

551 (4) The foregoing limitations and restrictions shall not be

20131770er

552 construed and shall not apply to the placing of surplus lines  
553 business under the provisions of part VIII or to the activities  
554 of Citizens Property Insurance Corporation in placing new and  
555 renewal business with authorized insurers in accordance with s.  
556 627.3518.

557 Section 3. Present subsections (11), (15), and (17) of  
558 section 626.854, Florida Statutes, are amended, and a new  
559 subsection (17) is added to that section to read:

560 626.854 "Public adjuster" defined; prohibitions.—The  
561 Legislature finds that it is necessary for the protection of the  
562 public to regulate public insurance adjusters and to prevent the  
563 unauthorized practice of law.

564 (11) (a) If a public adjuster enters into a contract with an  
565 insured or claimant to reopen a claim or file a supplemental  
566 claim that seeks additional payments for a claim that has been  
567 previously paid in part or in full or settled by the insurer,  
568 the public adjuster may not charge, agree to, or accept from any  
569 source ~~any~~ compensation, payment, commission, fee, or any other  
570 thing of value based on a previous settlement or previous claim  
571 payments by the insurer for the same cause of loss. The charge,  
572 compensation, payment, commission, fee, or any other thing of  
573 value must be based only on the claim payments or settlement  
574 obtained through the work of the public adjuster after entering  
575 into the contract with the insured or claimant. Compensation for  
576 the reopened or supplemental claim may not exceed 20 percent of  
577 the reopened or supplemental claim payment. In no event shall  
578 the contracts described in this paragraph exceed ~~are not subject~~  
579 ~~to~~ the limitations in paragraph (b).

580 (b) A public adjuster may not charge, agree to, or accept

20131770er

581 from any source ~~any~~ compensation, payment, commission, fee, or  
582 any other thing of value in excess of:

583 1. Ten percent of the amount of insurance claim payments  
584 made by the insurer for claims based on events that are the  
585 subject of a declaration of a state of emergency by the  
586 Governor. This provision applies to claims made during the year  
587 after the declaration of emergency. After that year, the  
588 limitations in subparagraph 2. apply.

589 2. Twenty percent of the amount of insurance claim payments  
590 made by the insurer for claims that are not based on events that  
591 are the subject of a declaration of a state of emergency by the  
592 Governor.

593 (c) Any maneuver, shift, or device through which the limits  
594 on compensation set forth in this subsection are exceeded is a  
595 violation of this chapter punishable as provided under s.  
596 626.8698.

597 ~~(15) A public adjuster must ensure prompt notice of~~  
598 ~~property loss claims submitted to an insurer by or through a~~  
599 ~~public adjuster or on which a public adjuster represents the~~  
600 ~~insured at the time the claim or notice of loss is submitted to~~  
601 ~~the insurer. The public adjuster must ensure that prompt notice~~  
602 ~~is given of the claim to the insurer, the public adjuster's~~  
603 ~~contract is provided to the insurer, the property is available~~  
604 ~~for inspection of the loss or damage by the insurer, and the~~  
605 ~~insurer is given an opportunity to interview the insured~~  
606 ~~directly about the loss and claim. The insurer must be allowed~~  
607 ~~to obtain necessary information to investigate and respond to~~  
608 ~~the claim.~~

609 (a) The insurer may not exclude the public adjuster from

20131770er

610 its in-person meetings with the insured. The insurer shall meet  
611 or communicate with the public adjuster in an effort to reach  
612 agreement as to the scope of the covered loss under the  
613 insurance policy. The public adjuster shall meet or communicate  
614 with the insurer in an effort to reach agreement as to the scope  
615 of the covered loss under the insurance policy. This section  
616 does not impair the terms and conditions of the insurance policy  
617 in effect at the time the claim is filed.

618 (b) A public adjuster may not restrict or prevent an  
619 insurer, company employee adjuster, independent adjuster,  
620 attorney, investigator, or other person acting on behalf of the  
621 insurer from having reasonable access at reasonable times to any  
622 ~~an~~ insured or claimant or to the insured property that is the  
623 subject of a claim.

624 (c) A public adjuster may not act or fail to reasonably act  
625 in any manner that obstructs or prevents an insurer or insurer's  
626 adjuster from timely conducting an inspection of any part of the  
627 insured property for which there is a claim for loss or damage.  
628 The public adjuster representing the insureds ~~insured~~ may be  
629 present for the insurer's inspection, but if the unavailability  
630 of the public adjuster otherwise delays the insurer's timely  
631 inspection of the property, the public adjuster or the insureds  
632 ~~insured~~ must allow the insurer to have access to the property  
633 without the participation or presence of the public adjuster or  
634 insureds ~~insured~~ in order to facilitate the insurer's prompt  
635 inspection of the loss or damage.

636 (17) A public adjuster shall not acquire any interest in  
637 salvaged property, except with the written consent and  
638 permission of the insured through a signed affidavit.

20131770er

639       ~~(18)~~~~(17)~~ The provisions of subsections (5)-(17) ~~(5)~~~~(16)~~  
640 apply only to residential property insurance policies and  
641 condominium unit owner policies as defined in s. 718.111(11).

642       Section 4. The Legislature intends to enhance the expertise  
643 immediately available to the commission by increasing the  
644 membership of the Florida Commission on Hurricane Loss  
645 Projection Methodology to provide for the appointment of an  
646 additional member with special qualifications or attributes.

647       Section 5. Subsection (2) of section 627.0628, Florida  
648 Statutes, is amended to read:

649       627.0628 Florida Commission on Hurricane Loss Projection  
650 Methodology; public records exemption; public meetings  
651 exemption.—

652       (2) COMMISSION CREATED.—

653       (a) There is created the Florida Commission on Hurricane  
654 Loss Projection Methodology, which is assigned to the State  
655 Board of Administration. For the purposes of this section, the  
656 term "commission" means the Florida Commission on Hurricane Loss  
657 Projection Methodology. The commission shall be administratively  
658 housed within the State Board of Administration, but it shall  
659 independently exercise the powers and duties specified in this  
660 section.

661       (b) The commission shall consist of the following 12 ~~11~~  
662 members:

663       1. The insurance consumer advocate.

664       2. The senior employee of the State Board of Administration  
665 responsible for operations of the Florida Hurricane Catastrophe  
666 Fund.

667       3. The Executive Director of the Citizens Property

20131770er

668 Insurance Corporation.

669 4. The Director of the Division of Emergency Management.

670 5. The actuary member of the Florida Hurricane Catastrophe  
671 Fund Advisory Council.

672 6. An employee of the office who is an actuary responsible  
673 for property insurance rate filings and who is appointed by the  
674 director of the office.

675 7. Five members appointed by the Chief Financial Officer,  
676 as follows:

677 a. An actuary who is employed full time by a property and  
678 casualty insurer that was responsible for at least 1 percent of  
679 the aggregate statewide direct written premium for homeowner's  
680 insurance in the calendar year preceding the member's  
681 appointment to the commission.

682 b. An expert in insurance finance who is a full-time member  
683 of the faculty of the State University System and who has a  
684 background in actuarial science.

685 c. An expert in statistics who is a full-time member of the  
686 faculty of the State University System and who has a background  
687 in insurance.

688 d. An expert in computer system design who is a full-time  
689 member of the faculty of the State University System.

690 e. An expert in meteorology who is a full-time member of  
691 the faculty of the State University System and who specializes  
692 in hurricanes.

693 8. A licensed professional structural engineer who is a  
694 full-time faculty member in the State University System and who  
695 has expertise in wind mitigation techniques. This appointment  
696 shall be made by the Governor.



20131770er

697 (c) Members designated under subparagraphs (b)1.-5. shall  
698 serve on the commission as long as they maintain the respective  
699 offices designated in subparagraphs (b)1.-5. The member  
700 appointed by the director of the office under subparagraph (b)6.  
701 shall serve on the commission until the end of the term of  
702 office of the director who appointed him or her, unless removed  
703 earlier by the director for cause. Members appointed by the  
704 Chief Financial Officer under subparagraph (b)7. shall serve on  
705 the commission until the end of the term of office of the Chief  
706 Financial Officer who appointed them, unless earlier removed by  
707 the Chief Financial Officer for cause. Vacancies on the  
708 commission shall be filled in the same manner as the original  
709 appointment.

710 (d) The State Board of Administration shall annually  
711 appoint one of the members of the commission to serve as chair.

712 (e) Members of the commission shall serve without  
713 compensation, but shall be reimbursed for per diem and travel  
714 expenses pursuant to s. 112.061.

715 (f) The State Board of Administration shall, as a cost of  
716 administration of the Florida Hurricane Catastrophe Fund,  
717 provide for travel, expenses, and staff support for the  
718 commission.

719 (g) There shall be no liability on the part of, and no  
720 cause of action of any nature shall arise against, any member of  
721 the commission, any member of the State Board of Administration,  
722 or any employee of the State Board of Administration for any  
723 action taken in the performance of their duties under this  
724 section. In addition, the commission may, in writing, waive any  
725 potential cause of action for negligence of a consultant,

20131770er

726 contractor, or contract employee engaged to assist the  
727 commission.

728 Section 6. Subsection (5) of section 627.0629, Florida  
729 Statutes, is amended to read:

730 627.0629 Residential property insurance; rate filings.—

731 (5) In order to provide an appropriate transition period,  
732 an insurer may implement an approved rate filing for residential  
733 property insurance over a period of years. Such insurer must  
734 provide an informational notice to the office setting out its  
735 schedule for implementation of the phased-in rate filing. The  
736 insurer may include in its rate the actual cost of private  
737 market reinsurance that corresponds to available coverage of the  
738 Temporary Increase in Coverage Limits, TICL, from the Florida  
739 Hurricane Catastrophe Fund. The insurer may also include the  
740 cost of reinsurance to replace the TICL reduction implemented  
741 pursuant to s. 215.555(16)(d)9. ~~215.555(17)(d)9.~~ However, this  
742 cost for reinsurance may not include any expense or profit load  
743 or result in a total annual base rate increase in excess of 10  
744 percent.

745 Section 7. Paragraphs (a), (c), (i), (k), and (q) of  
746 subsection (6) of section 627.351, Florida Statutes, are  
747 amended, and paragraphs (gg) and (hh) are added to that  
748 subsection, to read:

749 627.351 Insurance risk apportionment plans.—

750 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

754 1. The Legislature finds that private insurers are

20131770er

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

20131770er

784 catastrophic hurricane, it is the intent of the Legislature that  
785 the corporation continue to be an integral part of the state and  
786 that the income of the corporation be exempt from federal income  
787 taxation and that interest on the debt obligations issued by the  
788 corporation be exempt from federal income taxation.

789 2. The Residential Property and Casualty Joint Underwriting  
790 Association originally created by this statute shall be known as  
791 the Citizens Property Insurance Corporation. The corporation  
792 shall provide insurance for residential and commercial property,  
793 for applicants who are entitled, but, in good faith, are unable  
794 to procure insurance through the voluntary market. The  
795 corporation shall operate pursuant to a plan of operation  
796 approved by order of the Financial Services Commission. The plan  
797 is subject to continuous review by the commission. The  
798 commission may, by order, withdraw approval of all or part of a  
799 plan if the commission determines that conditions have changed  
800 since approval was granted and that the purposes of the plan  
801 require changes in the plan. For the purposes of this  
802 subsection, residential coverage includes both personal lines  
803 residential coverage, which consists of the type of coverage  
804 provided by homeowner's, mobile home owner's, dwelling,  
805 tenant's, condominium unit owner's, and similar policies; and  
806 commercial lines residential coverage, which consists of the  
807 type of coverage provided by condominium association, apartment  
808 building, and similar policies.

809 3. With respect to coverage for personal lines residential  
810 structures:

811 a. Effective January 1, 2014 ~~2009~~, a ~~personal lines~~  
812 ~~residential~~ structure that has a dwelling replacement cost of \$1

20131770er

813 \$2 million or more, or a single condominium unit that has a  
814 combined dwelling and contents replacement cost of \$1 ~~\$2~~ million  
815 or more is not eligible for coverage by the corporation. Such  
816 dwellings insured by the corporation on December 31, 2013 ~~2008~~,  
817 may continue to be covered by the corporation until the end of  
818 the policy term. ~~However, such dwellings may reapply and obtain~~  
819 ~~coverage if the property owner provides the corporation with a~~  
820 ~~sworn affidavit from one or more insurance agents, on a form~~  
821 ~~provided by the corporation, stating that the agents have made~~  
822 ~~their best efforts to obtain coverage and that the property has~~  
823 ~~been rejected for coverage by at least one authorized insurer~~  
824 ~~and at least three surplus lines insurers. If such conditions~~  
825 ~~are met, the dwelling may be insured by the corporation for up~~  
826 ~~to 3 years, after which time the dwelling is ineligible for~~  
827 ~~coverage.~~ The office shall approve the method used by the  
828 corporation for valuing the dwelling replacement cost for the  
829 purposes of this subparagraph. If a policyholder is insured by  
830 the corporation before ~~prior to~~ being determined to be  
831 ineligible pursuant to this subparagraph and such policyholder  
832 files a lawsuit challenging the determination, the policyholder  
833 may remain insured by the corporation until the conclusion of  
834 the litigation.

835 b. Effective January 1, 2015, a structure that has a  
836 dwelling replacement cost of \$900,000 or more, or a single  
837 condominium unit that has a combined dwelling and contents  
838 replacement cost of \$900,000 or more, is not eligible for  
839 coverage by the corporation. Such dwellings insured by the  
840 corporation on December 31, 2014, may continue to be covered by  
841 the corporation only until the end of the policy term.

20131770er

842 c. Effective January 1, 2016, a structure that has a  
843 dwelling replacement cost of \$800,000 or more, or a single  
844 condominium unit that has a combined dwelling and contents  
845 replacement cost of \$800,000 or more, is not eligible for  
846 coverage by the corporation. Such dwellings insured by the  
847 corporation on December 31, 2015, may continue to be covered by  
848 the corporation until the end of the policy term.

849 d. Effective January 1, 2017, a structure that has a  
850 dwelling replacement cost of \$700,000 or more, or a single  
851 condominium unit that has a combined dwelling and contents  
852 replacement cost of \$700,000 or more, is not eligible for  
853 coverage by the corporation. Such dwellings insured by the  
854 corporation on December 31, 2016, may continue to be covered by  
855 the corporation until the end of the policy term.

856  
857 The requirements of sub-subparagraphs b.-d. do not apply in  
858 counties where the office determines there is not a reasonable  
859 degree of competition. In such counties a personal lines  
860 residential structure that has a dwelling replacement cost of  
861 less than \$1 million, or a single condominium unit that has a  
862 combined dwelling and contents replacement cost of less than \$1  
863 million, is eligible for coverage by the corporation.

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

20131770er

871 and overall dealings with policyholders, applicants, or agents  
872 of the corporation.

873       5.a. Effective January 1, 2009, a personal lines  
874 residential structure that is located in the "wind-borne debris  
875 region," as defined in s. 1609.2, International Building Code  
876 (2006), and that has an insured value on the structure of  
877 \$750,000 or more is not eligible for coverage by the corporation  
878 unless the structure has opening protections as required under  
879 the Florida Building Code for a newly constructed residential  
880 structure in that area. A residential structure is ~~shall be~~  
881 deemed to comply with this subparagraph if it has shutters or  
882 opening protections on all openings and if such opening  
883 protections complied with the Florida Building Code at the time  
884 they were installed.

885       b. Any major structure as defined in s. 161.54(6) (a) for  
886 which a permit is applied on or after July 1, 2014, for new  
887 construction or substantial improvement as defined in s.  
888 161.54(12) is not eligible for coverage by the corporation if  
889 the structure is seaward of the coastal construction control  
890 line established pursuant to s. 161.053 or is within the Coastal  
891 Barrier Resources System as designated by 16 U.S.C. ss. 3501-  
892 3510.

893       ~~6. For any claim filed under any policy of the corporation,~~  
894 ~~a public adjuster may not charge, agree to, or accept any~~  
895 ~~compensation, payment, commission, fee, or other thing of value~~  
896 ~~greater than 10 percent of the additional amount actually paid~~  
897 ~~over the amount that was originally offered by the corporation~~  
898 ~~for any one claim.~~

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

20131770er

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

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

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

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

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

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



20131770er

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

932 g. Effective January 1, 2013, the corporation shall offer a  
933 basic personal lines policy similar to an HO-8 policy with  
934 dwelling repair based on common construction materials and  
935 methods.

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

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

943 (I) "Quota share primary insurance" means an arrangement in  
944 which the primary hurricane coverage of an eligible risk is  
945 provided in specified percentages by the corporation and an  
946 authorized insurer. The corporation and authorized insurer are  
947 each solely responsible for a specified percentage of hurricane  
948 coverage of an eligible risk as set forth in a quota share  
949 primary insurance agreement between the corporation and an  
950 authorized insurer and the insurance contract. The  
951 responsibility of the corporation or authorized insurer to pay  
952 its specified percentage of hurricane losses of an eligible  
953 risk, as set forth in the agreement, may not be altered by the  
954 inability of the other party to pay its specified percentage of  
955 losses. Eligible risks that are provided hurricane coverage  
956 through a quota share primary insurance arrangement must be  
957 provided policy forms that set forth the obligations of the

20131770er

958 corporation and authorized insurer under the arrangement,  
959 clearly specify the percentages of quota share primary insurance  
960 provided by the corporation and authorized insurer, and  
961 conspicuously and clearly state that the authorized insurer and  
962 the corporation may not be held responsible beyond their  
963 specified percentage of coverage of hurricane losses.

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

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

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

978 d. Any quota share primary insurance agreement entered into  
979 between an authorized insurer and the corporation must provide  
980 for a uniform specified percentage of coverage of hurricane  
981 losses, by county or territory as set forth by the corporation  
982 board, for all eligible risks of the authorized insurer covered  
983 under the agreement.

984 e. Any quota share primary insurance agreement entered into  
985 between an authorized insurer and the corporation is subject to  
986 review and approval by the office. However, such agreement shall

20131770er

987 be authorized only as to insurance contracts entered into  
988 between an authorized insurer and an insured who is already  
989 insured by the corporation for wind coverage.

990 f. For all eligible risks covered under quota share primary  
991 insurance agreements, the exposure and coverage levels for both  
992 the corporation and authorized insurers shall be reported by the  
993 corporation to the Florida Hurricane Catastrophe Fund. For all  
994 policies of eligible risks covered under such agreements, the  
995 corporation and the authorized insurer must maintain complete  
996 and accurate records for the purpose of exposure and loss  
997 reimbursement audits as required by fund rules. The corporation  
998 and the authorized insurer shall each maintain duplicate copies  
999 of policy declaration pages and supporting claims documents.

1000 g. The corporation board shall establish in its plan of  
1001 operation standards for quota share agreements which ensure that  
1002 there is no discriminatory application among insurers as to the  
1003 terms of the agreements, pricing of the agreements, incentive  
1004 provisions if any, and consideration paid for servicing policies  
1005 or adjusting claims.

1006 h. The quota share primary insurance agreement between the  
1007 corporation and an authorized insurer must set forth the  
1008 specific terms under which coverage is provided, including, but  
1009 not limited to, the sale and servicing of policies issued under  
1010 the agreement by the insurance agent of the authorized insurer  
1011 producing the business, the reporting of information concerning  
1012 eligible risks, the payment of premium to the corporation, and  
1013 arrangements for the adjustment and payment of hurricane claims  
1014 incurred on eligible risks by the claims adjuster and personnel  
1015 of the authorized insurer. Entering into a quota sharing

20131770er

1016 insurance agreement between the corporation and an authorized  
1017 insurer is voluntary and at the discretion of the authorized  
1018 insurer.

1019 3.a. May provide that the corporation may employ or  
1020 otherwise contract with individuals or other entities to provide  
1021 administrative or professional services that may be appropriate  
1022 to effectuate the plan. The corporation may borrow funds by  
1023 issuing bonds or by incurring other indebtedness, and shall have  
1024 other powers reasonably necessary to effectuate the requirements  
1025 of this subsection, including, without limitation, the power to  
1026 issue bonds and incur other indebtedness in order to refinance  
1027 outstanding bonds or other indebtedness. The corporation may  
1028 seek judicial validation of its bonds or other indebtedness  
1029 under chapter 75. The corporation may issue bonds or incur other  
1030 indebtedness, or have bonds issued on its behalf by a unit of  
1031 local government pursuant to subparagraph (q)2. in the absence  
1032 of a hurricane or other weather-related event, upon a  
1033 determination by the corporation, subject to approval by the  
1034 office, that such action would enable it to efficiently meet the  
1035 financial obligations of the corporation and that such  
1036 financings are reasonably necessary to effectuate the  
1037 requirements of this subsection. The corporation may take all  
1038 actions needed to facilitate tax-free status for such bonds or  
1039 indebtedness, including formation of trusts or other affiliated  
1040 entities. The corporation may pledge assessments, projected  
1041 recoveries from the Florida Hurricane Catastrophe Fund, other  
1042 reinsurance recoverables, policyholder surcharges and other  
1043 surcharges, and other funds available to the corporation as  
1044 security for bonds or other indebtedness. In recognition of s.

20131770er

1045 10, Art. I of the State Constitution, prohibiting the impairment  
1046 of obligations of contracts, it is the intent of the Legislature  
1047 that no action be taken whose purpose is to impair any bond  
1048 indenture or financing agreement or any revenue source committed  
1049 by contract to such bond or other indebtedness.

1050 b. To ensure that the corporation is operating in an  
1051 efficient and economic manner while providing quality service to  
1052 policyholders, applicants, and agents, the board shall  
1053 commission an independent third-party consultant having  
1054 expertise in insurance company management or insurance company  
1055 management consulting to prepare a report and make  
1056 recommendations on the relative costs and benefits of  
1057 outsourcing various policy issuance and service functions to  
1058 private servicing carriers or entities performing similar  
1059 functions in the private market for a fee, rather than  
1060 performing such functions in-house. In making such  
1061 recommendations, the consultant shall consider how other  
1062 residual markets, both in this state and around the country,  
1063 outsource appropriate functions or use servicing carriers to  
1064 better match expenses with revenues that fluctuate based on a  
1065 widely varying policy count. The report must be completed by  
1066 July 1, 2012. Upon receiving the report, the board shall develop  
1067 a plan to implement the report and submit the plan for review,  
1068 modification, and approval to the Financial Services Commission.  
1069 Upon the commission's approval of the plan, the board shall  
1070 begin implementing the plan by January 1, 2013.

1071 4. Must require that the corporation operate subject to the  
1072 supervision and approval of a board of governors consisting of  
1073 nine ~~eight~~ individuals who are residents of this state and who

20131770er

1074 are, from different geographical areas of the this state, one of  
1075 whom is appointed by the Governor and serves solely to advocate  
1076 on behalf of the consumer. The appointment of a consumer  
1077 representative by the Governor is in addition to the  
1078 appointments authorized under sub-subparagraph a.

1079 a. The Governor, the Chief Financial Officer, the President  
1080 of the Senate, and the Speaker of the House of Representatives  
1081 shall each appoint two members of the board. At least one of the  
1082 two members appointed by each appointing officer must have  
1083 demonstrated expertise in insurance and is deemed to be within  
1084 the scope of the exemption provided in s. 112.313(7) (b). The  
1085 Chief Financial Officer shall designate one of the appointees as  
1086 chair. All board members serve at the pleasure of the appointing  
1087 officer. All members of the board are subject to removal at will  
1088 by the officers who appointed them. All board members, including  
1089 the chair, must be appointed to serve for 3-year terms beginning  
1090 annually on a date designated by the plan. However, for the  
1091 first term beginning on or after July 1, 2009, each appointing  
1092 officer shall appoint one member of the board for a 2-year term  
1093 and one member for a 3-year term. A board vacancy shall be  
1094 filled for the unexpired term by the appointing officer. The  
1095 Chief Financial Officer shall appoint a technical advisory group  
1096 to provide information and advice to the board in connection  
1097 with the board's duties under this subsection. The executive  
1098 director and senior managers of the corporation shall be engaged  
1099 by the board and serve at the pleasure of the board. Any  
1100 executive director appointed on or after July 1, 2006, is  
1101 subject to confirmation by the Senate. The executive director is  
1102 responsible for employing other staff as the corporation may

20131770er

1103 require, subject to review and concurrence by the board.

1104       b. The board shall create a Market Accountability Advisory  
1105 Committee to assist the corporation in developing awareness of  
1106 its rates and its customer and agent service levels in  
1107 relationship to the voluntary market insurers writing similar  
1108 coverage.

1109       (I) The members of the advisory committee consist of the  
1110 following 11 persons, one of whom must be elected chair by the  
1111 members of the committee: four representatives, one appointed by  
1112 the Florida Association of Insurance Agents, one by the Florida  
1113 Association of Insurance and Financial Advisors, one by the  
1114 Professional Insurance Agents of Florida, and one by the Latin  
1115 American Association of Insurance Agencies; three  
1116 representatives appointed by the insurers with the three highest  
1117 voluntary market share of residential property insurance  
1118 business in the state; one representative from the Office of  
1119 Insurance Regulation; one consumer appointed by the board who is  
1120 insured by the corporation at the time of appointment to the  
1121 committee; one representative appointed by the Florida  
1122 Association of Realtors; and one representative appointed by the  
1123 Florida Bankers Association. All members shall be appointed to  
1124 3-year terms and may serve for consecutive terms.

1125       (II) The committee shall report to the corporation at each  
1126 board meeting on insurance market issues which may include rates  
1127 and rate competition with the voluntary market; service,  
1128 including policy issuance, claims processing, and general  
1129 responsiveness to policyholders, applicants, and agents; and  
1130 matters relating to depopulation.

1131       5. Must provide a procedure for determining the eligibility

20131770er

1132 of a risk for coverage, as follows:

1133 a. Subject to s. 627.3517, with respect to personal lines  
1134 residential risks, if the risk is offered coverage from an  
1135 authorized insurer at the insurer's approved rate under a  
1136 standard policy including wind coverage or, if consistent with  
1137 the insurer's underwriting rules as filed with the office, a  
1138 basic policy including wind coverage, for a new application to  
1139 the corporation for coverage, the risk is not eligible for any  
1140 policy issued by the corporation unless the premium for coverage  
1141 from the authorized insurer is more than 15 percent greater than  
1142 the premium for comparable coverage from the corporation.

1143 Whenever an offer of coverage for a personal lines residential  
1144 risk is received for a policyholder of the corporation at  
1145 renewal from an authorized insurer, if the offer is equal to or  
1146 less than the corporation's renewal premium for comparable  
1147 coverage, the risk is not eligible for coverage with the  
1148 corporation. If the risk is not able to obtain such offer, the  
1149 risk is eligible for a standard policy including wind coverage  
1150 or a basic policy including wind coverage issued by the  
1151 corporation; however, if the risk could not be insured under a  
1152 standard policy including wind coverage regardless of market  
1153 conditions, the risk is eligible for a basic policy including  
1154 wind coverage unless rejected under subparagraph 8. However, ~~a~~  
1155 ~~policyholder of the corporation or~~ a policyholder removed from  
1156 the corporation through an assumption agreement remains eligible  
1157 for coverage from the corporation until the end of the  
1158 assumption period ~~remains eligible for coverage from the~~  
1159 ~~corporation regardless of any offer of coverage from an~~  
1160 ~~authorized insurer or surplus lines insurer.~~ The corporation



20131770er

1161 shall determine the type of policy to be provided on the basis  
1162 of objective standards specified in the underwriting manual and  
1163 based on generally accepted underwriting practices.

1164 (I) If the risk accepts an offer of coverage through the  
1165 market assistance plan or through a mechanism established by the  
1166 corporation other than a plan established by s. 627.3518, before  
1167 a policy is issued to the risk by the corporation or during the  
1168 first 30 days of coverage by the corporation, and the producing  
1169 agent who submitted the application to the plan or to the  
1170 corporation is not currently appointed by the insurer, the  
1171 insurer shall:

1172 (A) Pay to the producing agent of record of the policy for  
1173 the first year, an amount that is the greater of the insurer's  
1174 usual and customary commission for the type of policy written or  
1175 a fee equal to the usual and customary commission of the  
1176 corporation; or

1177 (B) Offer to allow the producing agent of record of the  
1178 policy to continue servicing the policy for at least 1 year and  
1179 offer to pay the agent the greater of the insurer's or the  
1180 corporation's usual and customary commission for the type of  
1181 policy written.

1182  
1183 If the producing agent is unwilling or unable to accept  
1184 appointment, the new insurer shall pay the agent in accordance  
1185 with sub-sub-sub-subparagraph (A).

1186 (II) If the corporation enters into a contractual agreement  
1187 for a take-out plan, the producing agent of record of the  
1188 corporation policy is entitled to retain any unearned commission  
1189 on the policy, and the insurer shall:

20131770er

1190 (A) Pay to the producing agent of record, for the first  
1191 year, an amount that is the greater of the insurer's usual and  
1192 customary commission for the type of policy written or a fee  
1193 equal to the usual and customary commission of the corporation;  
1194 or

1195 (B) Offer to allow the producing agent of record to  
1196 continue servicing the policy for at least 1 year and offer to  
1197 pay the agent the greater of the insurer's or the corporation's  
1198 usual and customary commission for the type of policy written.

1199  
1200 If the producing agent is unwilling or unable to accept  
1201 appointment, the new insurer shall pay the agent in accordance  
1202 with sub-sub-sub-subparagraph (A).

1203 b. With respect to commercial lines residential risks, for  
1204 a new application to the corporation for coverage, if the risk  
1205 is offered coverage under a policy including wind coverage from  
1206 an authorized insurer at its approved rate, the risk is not  
1207 eligible for a policy issued by the corporation unless the  
1208 premium for coverage from the authorized insurer is more than 15  
1209 percent greater than the premium for comparable coverage from  
1210 the corporation. Whenever an offer of coverage for a commercial  
1211 lines residential risk is received for a policyholder of the  
1212 corporation at renewal from an authorized insurer, if the offer  
1213 is equal to or less than the corporation's renewal premium for  
1214 comparable coverage, the risk is not eligible for coverage with  
1215 the corporation. If the risk is not able to obtain any such  
1216 offer, the risk is eligible for a policy including wind coverage  
1217 issued by the corporation. However, ~~a policyholder of the~~  
1218 ~~corporation or~~ a policyholder removed from the corporation

20131770er

1219 through an assumption agreement remains eligible for coverage  
1220 from the corporation until the end of the assumption period  
1221 ~~remains eligible for coverage from the corporation regardless of~~  
1222 ~~an offer of coverage from an authorized insurer or surplus lines~~  
1223 ~~insurer.~~

1224 (I) If the risk accepts an offer of coverage through the  
1225 market assistance plan or through a mechanism established by the  
1226 corporation other than a plan established by s. 627.3518, before  
1227 a policy is issued to the risk by the corporation or during the  
1228 first 30 days of coverage by the corporation, and the producing  
1229 agent who submitted the application to the plan or the  
1230 corporation is not currently appointed by the insurer, the  
1231 insurer shall:

1232 (A) Pay to the producing agent of record of the policy, for  
1233 the first year, an amount that is the greater of the insurer's  
1234 usual and customary commission for the type of policy written or  
1235 a fee equal to the usual and customary commission of the  
1236 corporation; or

1237 (B) Offer to allow the producing agent of record of the  
1238 policy to continue servicing the policy for at least 1 year and  
1239 offer to pay the agent the greater of the insurer's or the  
1240 corporation's usual and customary commission for the type of  
1241 policy written.

1242  
1243 If the producing agent is unwilling or unable to accept  
1244 appointment, the new insurer shall pay the agent in accordance  
1245 with sub-sub-sub-subparagraph (A).

1246 (II) If the corporation enters into a contractual agreement  
1247 for a take-out plan, the producing agent of record of the

20131770er

1248 corporation policy is entitled to retain any unearned commission  
1249 on the policy, and the insurer shall:

1250 (A) Pay to the producing agent of record, for the first  
1251 year, an amount that is the greater of the insurer's usual and  
1252 customary commission for the type of policy written or a fee  
1253 equal to the usual and customary commission of the corporation;  
1254 or

1255 (B) Offer to allow the producing agent of record to  
1256 continue servicing the policy for at least 1 year and offer to  
1257 pay the agent the greater of the insurer's or the corporation's  
1258 usual and customary commission for the type of policy written.  
1259

1260 If the producing agent is unwilling or unable to accept  
1261 appointment, the new insurer shall pay the agent in accordance  
1262 with sub-sub-sub-subparagraph (A).

1263 c. For purposes of determining comparable coverage under  
1264 sub-subparagraphs a. and b., the comparison must be based on  
1265 those forms and coverages that are reasonably comparable. The  
1266 corporation may rely on a determination of comparable coverage  
1267 and premium made by the producing agent who submits the  
1268 application to the corporation, made in the agent's capacity as  
1269 the corporation's agent. A comparison may be made solely of the  
1270 premium with respect to the main building or structure only on  
1271 the following basis: the same coverage A or other building  
1272 limits; the same percentage hurricane deductible that applies on  
1273 an annual basis or that applies to each hurricane for commercial  
1274 residential property; the same percentage of ordinance and law  
1275 coverage, if the same limit is offered by both the corporation  
1276 and the authorized insurer; the same mitigation credits, to the

20131770er

1277 extent the same types of credits are offered both by the  
1278 corporation and the authorized insurer; the same method for loss  
1279 payment, such as replacement cost or actual cash value, if the  
1280 same method is offered both by the corporation and the  
1281 authorized insurer in accordance with underwriting rules; and  
1282 any other form or coverage that is reasonably comparable as  
1283 determined by the board. If an application is submitted to the  
1284 corporation for wind-only coverage in the coastal account, the  
1285 premium for the corporation's wind-only policy plus the premium  
1286 for the ex-wind policy that is offered by an authorized insurer  
1287 to the applicant must be compared to the premium for multiperil  
1288 coverage offered by an authorized insurer, subject to the  
1289 standards for comparison specified in this subparagraph. If the  
1290 corporation or the applicant requests from the authorized  
1291 insurer a breakdown of the premium of the offer by types of  
1292 coverage so that a comparison may be made by the corporation or  
1293 its agent and the authorized insurer refuses or is unable to  
1294 provide such information, the corporation may treat the offer as  
1295 not being an offer of coverage from an authorized insurer at the  
1296 insurer's approved rate.

1297         6. Must include rules for classifications of risks and  
1298 rates.

1299         7. Must provide that if premium and investment income for  
1300 an account attributable to a particular calendar year are in  
1301 excess of projected losses and expenses for the account  
1302 attributable to that year, such excess shall be held in surplus  
1303 in the account. Such surplus must be available to defray  
1304 deficits in that account as to future years and used for that  
1305 purpose before assessing assessable insurers and assessable

20131770er

1306 insureds as to any calendar year.

1307       8. Must provide objective criteria and procedures to be  
1308 uniformly applied to all applicants in determining whether an  
1309 individual risk is so hazardous as to be uninsurable. In making  
1310 this determination and in establishing the criteria and  
1311 procedures, the following must be considered:

1312           a. Whether the likelihood of a loss for the individual risk  
1313 is substantially higher than for other risks of the same class;  
1314 and

1315           b. Whether the uncertainty associated with the individual  
1316 risk is such that an appropriate premium cannot be determined.

1317  
1318 The acceptance or rejection of a risk by the corporation shall  
1319 be construed as the private placement of insurance, and the  
1320 provisions of chapter 120 do not apply.

1321       9. Must provide that the corporation make its best efforts  
1322 to procure catastrophe reinsurance at reasonable rates, to cover  
1323 its projected 100-year probable maximum loss as determined by  
1324 the board of governors.

1325       10. The policies issued by the corporation must provide  
1326 that if the corporation or the market assistance plan obtains an  
1327 offer from an authorized insurer to cover the risk at its  
1328 approved rates, the risk is no longer eligible for renewal  
1329 through the corporation, except as otherwise provided in this  
1330 subsection.

1331       11. Corporation policies and applications must include a  
1332 notice that the corporation policy could, under this section, be  
1333 replaced with a policy issued by an authorized insurer which  
1334 does not provide coverage identical to the coverage provided by

20131770er

1335 the corporation. The notice must also specify that acceptance of  
1336 corporation coverage creates a conclusive presumption that the  
1337 applicant or policyholder is aware of this potential.

1338 12. May establish, subject to approval by the office,  
1339 different eligibility requirements and operational procedures  
1340 for any line or type of coverage for any specified county or  
1341 area if the board determines that such changes are justified due  
1342 to the voluntary market being sufficiently stable and  
1343 competitive in such area or for such line or type of coverage  
1344 and that consumers who, in good faith, are unable to obtain  
1345 insurance through the voluntary market through ordinary methods  
1346 continue to have access to coverage from the corporation. If  
1347 coverage is sought in connection with a real property transfer,  
1348 the requirements and procedures may not provide an effective  
1349 date of coverage later than the date of the closing of the  
1350 transfer as established by the transferor, the transferee, and,  
1351 if applicable, the lender.

1352 13. Must provide that, with respect to the coastal account,  
1353 any assessable insurer with a surplus as to policyholders of \$25  
1354 million or less writing 25 percent or more of its total  
1355 countrywide property insurance premiums in this state may  
1356 petition the office, within the first 90 days of each calendar  
1357 year, to qualify as a limited apportionment company. A regular  
1358 assessment levied by the corporation on a limited apportionment  
1359 company for a deficit incurred by the corporation for the  
1360 coastal account may be paid to the corporation on a monthly  
1361 basis as the assessments are collected by the limited  
1362 apportionment company from its insureds, but a limited  
1363 apportionment company must begin collecting the regular

20131770er

1364 assessments not later than 90 days after the regular assessments  
1365 are levied by the corporation, and the regular assessments must  
1366 be paid in full within 15 months after being levied by the  
1367 corporation. A limited apportionment company shall collect from  
1368 its policyholders any emergency assessment imposed under sub-  
1369 subparagraph (b)3.d. The plan must provide that, if the office  
1370 determines that any regular assessment will result in an  
1371 impairment of the surplus of a limited apportionment company,  
1372 the office may direct that all or part of such assessment be  
1373 deferred as provided in subparagraph (q)4. However, an emergency  
1374 assessment to be collected from policyholders under sub-  
1375 subparagraph (b)3.d. may not be limited or deferred.

1376 14. Must provide that the corporation appoint as its  
1377 licensed agents only those agents who also hold an appointment  
1378 as defined in s. 626.015(3) with an insurer who at the time of  
1379 the agent's initial appointment by the corporation is authorized  
1380 to write and is actually writing personal lines residential  
1381 property coverage, commercial residential property coverage, or  
1382 commercial nonresidential property coverage within the state.

1383 15. Must provide a premium payment plan option to its  
1384 policyholders which, at a minimum, allows for quarterly and  
1385 semiannual payment of premiums. A monthly payment plan may, but  
1386 is not required to, be offered.

1387 16. Must limit coverage on mobile homes or manufactured  
1388 homes built before 1994 to actual cash value of the dwelling  
1389 rather than replacement costs of the dwelling.

1390 17. May provide such limits of coverage as the board  
1391 determines, consistent with the requirements of this subsection.

1392 18. May require commercial property to meet specified



20131770er

1393 hurricane mitigation construction features as a condition of  
1394 eligibility for coverage.

1395 19. Must provide that new or renewal policies issued by the  
1396 corporation on or after January 1, 2012, which cover sinkhole  
1397 loss do not include coverage for any loss to appurtenant  
1398 structures, driveways, sidewalks, decks, or patios that are  
1399 directly or indirectly caused by sinkhole activity. The  
1400 corporation shall exclude such coverage using a notice of  
1401 coverage change, which may be included with the policy renewal,  
1402 and not by issuance of a notice of nonrenewal of the excluded  
1403 coverage upon renewal of the current policy.

1404 20. As of January 1, 2012, must require that the agent  
1405 obtain from an applicant for coverage from the corporation an  
1406 acknowledgment signed by the applicant, which includes, at a  
1407 minimum, the following statement:

1408 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE

1409 AND ASSESSMENT LIABILITY:

1410 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE  
1411 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A  
1412 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,  
1413 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND  
1414 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE  
1415 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT  
1416 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA  
1417 LEGISLATURE.

1418 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER  
1419 SURCHARGE, WHICH COULD BE AS HIGH AS 45 PERCENT OF MY PREMIUM,  
1420 BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO  
1421 BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN

20131770er

1422 PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE  
1423 WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES  
1424 ARE REGULATED AND APPROVED BY THE STATE.

1425 ~~3.2.~~ I ALSO UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY  
1426 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER  
1427 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE  
1428 FLORIDA LEGISLATURE.

1429 ~~4.3.~~ I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE  
1430 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE  
1431 STATE OF FLORIDA.

1432 a. The corporation shall maintain, in electronic format or  
1433 otherwise, a copy of the applicant's signed acknowledgment and  
1434 provide a copy of the statement to the policyholder as part of  
1435 the first renewal after the effective date of this subparagraph.

1436 b. The signed acknowledgment form creates a conclusive  
1437 presumption that the policyholder understood and accepted his or  
1438 her potential surcharge and assessment liability as a  
1439 policyholder of the corporation.

1440 (i)1. The Office of the Internal Auditor is established  
1441 within the corporation to provide a central point for  
1442 coordination of and responsibility for activities that promote  
1443 accountability, integrity, and efficiency to the policyholders  
1444 and to the taxpayers of this state. The internal auditor shall  
1445 be appointed by the board of governors, shall report to and be  
1446 under the general supervision of the board of governors, and is  
1447 not subject to supervision by an ~~any~~ employee of the  
1448 corporation. Administrative staff and support shall be provided  
1449 by the corporation. The internal auditor shall be appointed  
1450 without regard to political affiliation. It is the duty and

20131770er

1451 responsibility of the internal auditor to:

1452 a. Provide direction for, supervise, conduct, and  
1453 coordinate audits, investigations, and management reviews  
1454 relating to the programs and operations of the corporation.

1455 b. Conduct, supervise, or coordinate other activities  
1456 carried out or financed by the corporation for the purpose of  
1457 promoting efficiency in the administration of, or preventing and  
1458 detecting fraud, abuse, and mismanagement in, its programs and  
1459 operations.

1460 c. Submit final audit reports, reviews, or investigative  
1461 reports to the board of governors, the executive director, the  
1462 members of the Financial Services Commission, and the President  
1463 of the Senate and the Speaker of the House of Representatives.

1464 d. Keep the board of governors informed concerning fraud,  
1465 abuses, and internal control deficiencies relating to programs  
1466 and operations administered or financed by the corporation,  
1467 recommend corrective action, and report on the progress made in  
1468 implementing corrective action.

1469 e. Cooperate and coordinate activities with the  
1470 corporation's inspector general ~~Report expeditiously to the~~  
1471 ~~Department of Law Enforcement or other law enforcement agencies,~~  
1472 ~~as appropriate, whenever the internal auditor has reasonable~~  
1473 ~~grounds to believe there has been a violation of criminal law.~~

1474 2. On or before February 15, the internal auditor shall  
1475 prepare an annual report evaluating the effectiveness of the  
1476 internal controls of the corporation and providing  
1477 recommendations for corrective action, if necessary, and  
1478 summarizing the audits, reviews, and investigations conducted by  
1479 the office during the preceding fiscal year. The final report

20131770er

1480 shall be furnished to the board of governors and the executive  
1481 director, the President of the Senate, the Speaker of the House  
1482 of Representatives, and the Financial Services Commission.

1483 (k)1. The corporation shall establish and maintain a unit  
1484 or division to investigate possible fraudulent claims by  
1485 insureds or by persons making claims for services or repairs  
1486 against policies held by insureds; or it may contract with  
1487 others to investigate possible fraudulent claims for services or  
1488 repairs against policies held by the corporation pursuant to s.  
1489 626.9891. The corporation must comply with reporting  
1490 requirements of s. 626.9891. An employee of the corporation  
1491 shall notify the corporation's Office of the Inspector General  
1492 ~~Internal Auditor~~ and the Division of Insurance Fraud within 48  
1493 hours after having information that would lead a reasonable  
1494 person to suspect that fraud may have been committed by any  
1495 employee of the corporation.

1496 2. The corporation shall establish a unit or division  
1497 responsible for receiving and responding to consumer complaints,  
1498 which unit or division is the sole responsibility of a senior  
1499 manager of the corporation.

1500 (q)1. The corporation shall certify to the office its needs  
1501 for annual assessments as to a particular calendar year, and for  
1502 any interim assessments that it deems to be necessary to sustain  
1503 operations as to a particular year pending the receipt of annual  
1504 assessments. Upon verification, the office shall approve such  
1505 certification, and the corporation shall levy such annual or  
1506 interim assessments. Such assessments shall be prorated as  
1507 provided in paragraph (b). The corporation shall take all  
1508 reasonable and prudent steps necessary to collect the amount of

20131770er

1509 assessments due from each assessable insurer, including, if  
1510 prudent, filing suit to collect the assessments, and the office  
1511 may provide such assistance to the corporation it deems  
1512 appropriate. If the corporation is unable to collect an  
1513 assessment from any assessable insurer, the uncollected  
1514 assessments shall be levied as an additional assessment against  
1515 the assessable insurers and any assessable insurer required to  
1516 pay an additional assessment as a result of such failure to pay  
1517 shall have a cause of action against such nonpaying assessable  
1518 insurer. Assessments shall be included as an appropriate factor  
1519 in the making of rates. The failure of a surplus lines agent to  
1520 collect and remit any regular or emergency assessment levied by  
1521 the corporation is considered to be a violation of s. 626.936  
1522 and subjects the surplus lines agent to the penalties provided  
1523 in that section.

1524       2. The governing body of any unit of local government, any  
1525 residents of which are insured by the corporation, may issue  
1526 bonds as defined in s. 125.013 or s. 166.101 from time to time  
1527 to fund an assistance program, in conjunction with the  
1528 corporation, for the purpose of defraying deficits of the  
1529 corporation. In order to avoid needless and indiscriminate  
1530 proliferation, duplication, and fragmentation of such assistance  
1531 programs, any unit of local government, any residents of which  
1532 are insured by the corporation, may provide for the payment of  
1533 losses, regardless of whether or not the losses occurred within  
1534 or outside of the territorial jurisdiction of the local  
1535 government. Revenue bonds under this subparagraph may not be  
1536 issued until validated pursuant to chapter 75, unless a state of  
1537 emergency is declared by executive order or proclamation of the

20131770er

1538 Governor pursuant to s. 252.36 making such findings as are  
1539 necessary to determine that it is in the best interests of, and  
1540 necessary for, the protection of the public health, safety, and  
1541 general welfare of residents of this state and declaring it an  
1542 essential public purpose to permit certain municipalities or  
1543 counties to issue such bonds as will permit relief to claimants  
1544 and policyholders of the corporation. Any such unit of local  
1545 government may enter into such contracts with the corporation  
1546 and with any other entity created pursuant to this subsection as  
1547 are necessary to carry out this paragraph. Any bonds issued  
1548 under this subparagraph shall be payable from and secured by  
1549 moneys received by the corporation from emergency assessments  
1550 under sub-subparagraph (b)3.d., and assigned and pledged to or  
1551 on behalf of the unit of local government for the benefit of the  
1552 holders of such bonds. The funds, credit, property, and taxing  
1553 power of the state or of the unit of local government shall not  
1554 be pledged for the payment of such bonds.

1555       3.a. The corporation shall adopt one or more programs  
1556 subject to approval by the office for the reduction of both new  
1557 and renewal writings in the corporation. Beginning January 1,  
1558 2008, any program the corporation adopts for the payment of  
1559 bonuses to an insurer for each risk the insurer removes from the  
1560 corporation shall comply with s. 627.3511(2) and may not exceed  
1561 the amount referenced in s. 627.3511(2) for each risk removed.  
1562 The corporation may consider any prudent and not unfairly  
1563 discriminatory approach to reducing corporation writings, and  
1564 may adopt a credit against assessment liability or other  
1565 liability that provides an incentive for insurers to take risks  
1566 out of the corporation and to keep risks out of the corporation

20131770er

1567 by maintaining or increasing voluntary writings in counties or  
1568 areas in which corporation risks are highly concentrated and a  
1569 program to provide a formula under which an insurer voluntarily  
1570 taking risks out of the corporation by maintaining or increasing  
1571 voluntary writings will be relieved wholly or partially from  
1572 assessments under sub-subparagraph (b)3.a. However, any "take-  
1573 out bonus" or payment to an insurer must be conditioned on the  
1574 property being insured for at least 5 years by the insurer,  
1575 unless canceled or nonrenewed by the policyholder. If the policy  
1576 is canceled or nonrenewed by the policyholder before the end of  
1577 the 5-year period, the amount of the take-out bonus must be  
1578 prorated for the time period the policy was insured. When the  
1579 corporation enters into a contractual agreement for a take-out  
1580 plan, the producing agent of record of the corporation policy is  
1581 entitled to retain any unearned commission on such policy, and  
1582 the insurer shall either:

1583 (I) Pay to the producing agent of record of the policy, for  
1584 the first year, an amount which is the greater of the insurer's  
1585 usual and customary commission for the type of policy written or  
1586 a policy fee equal to the usual and customary commission of the  
1587 corporation; or

1588 (II) Offer to allow the producing agent of record of the  
1589 policy to continue servicing the policy for a period of not less  
1590 than 1 year and offer to pay the agent the insurer's usual and  
1591 customary commission for the type of policy written. If the  
1592 producing agent is unwilling or unable to accept appointment by  
1593 the new insurer, the new insurer shall pay the agent in  
1594 accordance with sub-sub-subparagraph (I).

1595 b. Any credit or exemption from regular assessments adopted

20131770er

1596 under this subparagraph shall last no longer than the 3 years  
1597 following the cancellation or expiration of the policy by the  
1598 corporation. With the approval of the office, the board may  
1599 extend such credits for an additional year if the insurer  
1600 guarantees an additional year of renewability for all policies  
1601 removed from the corporation, or for 2 additional years if the  
1602 insurer guarantees 2 additional years of renewability for all  
1603 policies so removed.

1604 c. There shall be no credit, limitation, exemption, or  
1605 deferment from emergency assessments to be collected from  
1606 policyholders pursuant to sub-subparagraph (b)3.d.

1607 4. The plan shall provide for the deferment, in whole or in  
1608 part, of the assessment of an assessable insurer, other than an  
1609 emergency assessment collected from policyholders pursuant to  
1610 sub-subparagraph (b)3.d., if the office finds that payment of  
1611 the assessment would endanger or impair the solvency of the  
1612 insurer. In the event an assessment against an assessable  
1613 insurer is deferred in whole or in part, the amount by which  
1614 such assessment is deferred may be assessed against the other  
1615 assessable insurers in a manner consistent with the basis for  
1616 assessments set forth in paragraph (b).

1617 5. Effective July 1, 2007, in order to evaluate the costs  
1618 and benefits of approved take-out plans, if the corporation pays  
1619 a bonus or other payment to an insurer for an approved take-out  
1620 plan, it shall maintain a record of the address or such other  
1621 identifying information on the property or risk removed in order  
1622 to track if and when the property or risk is later insured by  
1623 the corporation.

1624 6. Any policy taken out, assumed, or removed from the



20131770er

1625 corporation is, as of the effective date of the take-out,  
1626 assumption, or removal, direct insurance issued by the insurer  
1627 and not by the corporation, even if the corporation continues to  
1628 service the policies. This subparagraph applies to policies of  
1629 the corporation and not policies taken out, assumed, or removed  
1630 from any other entity.

1631 7. For a policy taken out, assumed, or removed from the  
1632 corporation, the insurer may, for a period of no more than 3  
1633 years, continue to use any of the corporation's policy forms or  
1634 endorsements that apply to the policy taken out, removed, or  
1635 assumed without obtaining approval from the office for use of  
1636 such policy form or endorsement.

1637 (gg) The Office of Inspector General is established within  
1638 the corporation to provide a central point for coordination of  
1639 and responsibility for activities that promote accountability,  
1640 integrity, and efficiency. The office shall be headed by an  
1641 inspector general, which is a senior management position that  
1642 involves planning, coordinating, and performing activities  
1643 assigned to and assumed by the inspector general for the  
1644 corporation.

1645 1. The inspector general shall be appointed by the  
1646 Financial Services Commission and may only be removed from  
1647 office by the commission. The inspector general shall be  
1648 appointed without regard to political affiliation.

1649 a. At a minimum, the inspector general must possess a  
1650 bachelor's degree from an accredited college or university and 8  
1651 years of professional experience related to the duties of an  
1652 inspector general as described in this paragraph, of which 5  
1653 years must have been at a supervisory level.

20131770er

1654           b. The inspector general shall report to, and be under the  
1655 supervision of, the chair of the board of governors. The  
1656 executive director or corporation staff may not prevent or  
1657 prohibit the inspector general from initiating, carrying out, or  
1658 completing any audit, review, evaluation, study, or  
1659 investigation.

1660           2. The inspector general shall initiate, direct,  
1661 coordinate, participate in, and perform audits, reviews,  
1662 evaluations, studies, and investigations designed to assess  
1663 management practices; compliance with laws, rules, and policies;  
1664 and program effectiveness and efficiency. This includes:

1665           a. Conducting internal examinations; investigating  
1666 allegations of fraud, waste, abuse, malfeasance, mismanagement,  
1667 employee misconduct, or violations of corporation policies; and  
1668 conducting any other investigations as directed by the Financial  
1669 Services Commission or as independently determined.

1670           b. Evaluating and recommending actions regarding security,  
1671 the ethical behavior of personnel and vendors, and compliance  
1672 with rules, laws, policies, and personnel matters; and rendering  
1673 ethics opinions.

1674           c. Evaluating personnel and administrative policy  
1675 compliance, management and operational matters, and human  
1676 resources-related matters.

1677           d. Evaluating the application of a corporation code of  
1678 ethics, providing reviews and recommendations on the design and  
1679 content of ethics-related policy training courses, educating  
1680 employees on the code and on appropriate conduct, and checking  
1681 for compliance.

1682           e. Evaluating the activities of the senior management team

20131770er

1683 and management's compliance with recommended solutions.

1684 f. Cooperating and coordinating activities with the chief  
1685 of internal audit.

1686 g. Maintaining records of investigations and discipline in  
1687 accordance with established policies, or as otherwise required.

1688 h. Supervising and directing the tasks and assignments of  
1689 the staff assigned to assist with the inspector general's  
1690 projects, including regular review and feedback regarding work  
1691 in progress and providing recommendations regarding relevant  
1692 training and staff development activities.

1693 i. Directing, planning, preparing, and presenting interim  
1694 and final reports and oral briefings which communicate the  
1695 results of studies, reviews, and investigations.

1696 j. Providing the executive director with independent and  
1697 objective assessments of programs and activities.

1698 k. Completing special projects, assignments, and other  
1699 duties as requested by the Financial Services Commission.

1700 l. Reporting expeditiously to the Department of Law  
1701 Enforcement or other law enforcement agencies, as appropriate,  
1702 whenever the inspector general has reasonable grounds to believe  
1703 there has been a violation of criminal law.

1704 (hh) The corporation must prepare a report for each  
1705 calendar year outlining both the statewide average and county-  
1706 specific details of the loss ratio attributable to losses that  
1707 are not catastrophic losses for residential coverage provided by  
1708 the corporation, which information must be presented to the  
1709 office and available for public inspection on the Internet  
1710 website of the corporation by January 15th of the following  
1711 calendar year.

20131770er

1712 Section 8. Effective October 1, 2013, paragraphs (e) and  
1713 (t) of subsection (6) of section 627.351, Florida Statutes, are  
1714 amended to read:

1715 627.351 Insurance risk apportionment plans.—

1716 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

1717 (e) The corporation is subject to s. 287.057 for the  
1718 purchase of commodities and contractual services except as  
1719 otherwise provided in this paragraph. Services provided by  
1720 traders or technical experts to assist a licensed adjuster  
1721 in the evaluation of individual claims are not subject to the  
1722 procurement requirements of this section. Additionally, the  
1723 procurement of financial services providers and underwriters  
1724 must be made pursuant to s. 627.3513 ~~Purchases that equal or~~  
1725 ~~exceed \$2,500, but are less than \$25,000, shall be made by~~  
1726 ~~receipt of written quotes, written record of telephone quotes,~~  
1727 ~~or informal bids, whenever practical. The procurement of goods~~  
1728 ~~or services valued at or over \$25,000 shall be subject to~~  
1729 ~~competitive solicitation, except in situations where the goods~~  
1730 ~~or services are provided by a sole source or are deemed an~~  
1731 ~~emergency purchase; the services are exempted from competitive~~  
1732 ~~solicitation requirements under s. 287.057(3) (f); or the~~  
1733 ~~procurement of services is subject to s. 627.3513. Justification~~  
1734 ~~for the sole sourcing or emergency procurement must be~~  
1735 ~~documented.~~ Contracts for goods or services valued at or more  
1736 than ~~over~~ \$100,000 are subject to approval by the board.

1737 1. The corporation is an agency for purposes of s. 287.057,  
1738 except that, for purposes of s. 287.057(22), the corporation is  
1739 an eligible user.

1740 a. The authority of the Department of Management Services

20131770er

1741 and the Chief Financial Officer under s. 287.057 extends to the  
1742 corporation as if the corporation were an agency.

1743 b. The executive director of the corporation is the agency  
1744 head under s. 287.057, except for resolution of bid protests for  
1745 which the board would serve as the agency head.

1746 2. The corporation must provide notice of a decision or  
1747 intended decision concerning a solicitation, contract award, or  
1748 exceptional purchase by electronic posting. Such notice must  
1749 contain the following statement: "Failure to file a protest  
1750 within the time prescribed in this section constitutes a waiver  
1751 of proceedings."

1752 a. A person adversely affected by the corporation's  
1753 decision or intended decision to award a contract pursuant to s.  
1754 287.057(1) or s. 287.057(3)(c) who elects to challenge the  
1755 decision must file a written notice of protest with the  
1756 executive director of the corporation within 72 hours after the  
1757 corporation posts a notice of its decision or intended decision.  
1758 For a protest of the terms, conditions, and specifications  
1759 contained in a solicitation, including any provisions governing  
1760 the methods for ranking bids, proposals, replies, awarding  
1761 contracts, reserving rights of further negotiation, or modifying  
1762 or amending any contract, the notice of protest must be filed in  
1763 writing within 72 hours after the posting of the solicitation.  
1764 Saturdays, Sundays, and state holidays are excluded in the  
1765 computation of the 72-hour time period.

1766 b. A formal written protest must be filed within 10 days  
1767 after the date the notice of protest is filed. The formal  
1768 written protest must state with particularity the facts and law  
1769 upon which the protest is based. Upon receipt of a formal

20131770er

1770 written protest that has been timely filed, the corporation must  
1771 stop the solicitation or contract award process until the  
1772 subject of the protest is resolved by final board action unless  
1773 the executive director sets forth in writing particular facts  
1774 and circumstances that require the continuance of the  
1775 solicitation or contract award process without delay in order to  
1776 avoid an immediate and serious danger to the public health,  
1777 safety, or welfare. The corporation must provide an opportunity  
1778 to resolve the protest by mutual agreement between the parties  
1779 within 7 business days after receipt of the formal written  
1780 protest. If the subject of a protest is not resolved by mutual  
1781 agreement within 7 business days, the corporation's board must  
1782 place the protest on the agenda and resolve it at its next  
1783 regularly scheduled meeting. The protest must be heard by the  
1784 board at a publicly noticed meeting in accordance with  
1785 procedures established by the board.

1786 c. In a protest of an invitation-to-bid or request-for-  
1787 proposals procurement, submissions made after the bid or  
1788 proposal opening which amend or supplement the bid or proposal  
1789 may not be considered. In protesting an invitation-to-negotiate  
1790 procurement, submissions made after the corporation announces  
1791 its intent to award a contract, reject all replies, or withdraw  
1792 the solicitation that amends or supplements the reply may not be  
1793 considered. Unless otherwise provided by law, the burden of  
1794 proof rests with the party protesting the corporation's action.  
1795 In a competitive-procurement protest, other than a rejection of  
1796 all bids, proposals, or replies, the corporation's board must  
1797 conduct a de novo proceeding to determine whether the  
1798 corporation's proposed action is contrary to the corporation's

20131770er

1799 governing statutes, the corporation's rules or policies, or the  
1800 solicitation specifications. The standard of proof for the  
1801 proceeding is whether the corporation's action was clearly  
1802 erroneous, contrary to competition, arbitrary, or capricious. In  
1803 any bid-protest proceeding contesting an intended corporation  
1804 action to reject all bids, proposals, or replies, the standard  
1805 of review by the board is whether the corporation's intended  
1806 action is illegal, arbitrary, dishonest, or fraudulent.

1807 d. Failure to file a notice of protest or failure to file a  
1808 formal written protest constitutes a waiver of proceedings.

1809 3. Contract actions and decisions by the board under this  
1810 paragraph are final. Any further legal remedy must be made in  
1811 the Circuit Court of Leon County.

1812 (t) For the purposes of s. 199.183(1), the corporation  
1813 shall be considered a political subdivision of the state and  
1814 shall be exempt from the corporate income tax. The premiums,  
1815 assessments, investment income, and other revenue of the  
1816 corporation are funds received for providing property insurance  
1817 coverage as required by this subsection, paying claims for  
1818 Florida citizens insured by the corporation, securing and  
1819 repaying debt obligations issued by the corporation, and  
1820 conducting all other activities of the corporation, and shall  
1821 not be considered taxes, fees, licenses, or charges for services  
1822 imposed by the Legislature on individuals, businesses, or  
1823 agencies outside state government. Bonds and other debt  
1824 obligations issued by or on behalf of the corporation are not to  
1825 be considered "state bonds" within the meaning of s. 215.58(8).  
1826 The corporation is ~~not~~ subject to the procurement provisions of  
1827 chapter 287 as provided in paragraph (e), and policies and

20131770er

1828 decisions of the corporation relating to incurring debt, levying  
1829 of assessments and the sale, issuance, continuation, terms and  
1830 claims under corporation policies, and all services relating  
1831 thereto, are not subject to the provisions of chapter 120. The  
1832 corporation is not required to obtain or to hold a certificate  
1833 of authority issued by the office, nor is it required to  
1834 participate as a member insurer of the Florida Insurance  
1835 Guaranty Association. However, the corporation is required to  
1836 pay, in the same manner as an authorized insurer, assessments  
1837 levied by the Florida Insurance Guaranty Association. It is the  
1838 intent of the Legislature that the tax exemptions provided in  
1839 this paragraph will augment the financial resources of the  
1840 corporation to better enable the corporation to fulfill its  
1841 public purposes. Any debt obligations issued by the corporation,  
1842 their transfer, and the income therefrom, including any profit  
1843 made on the sale thereof, shall at all times be free from  
1844 taxation of every kind by the state and any political  
1845 subdivision or local unit or other instrumentality thereof;  
1846 however, this exemption does not apply to any tax imposed by  
1847 chapter 220 on interest, income, or profits on debt obligations  
1848 owned by corporations other than the corporation.

1849       Section 9. The purchase of commodities and contractual  
1850 services by Citizens Property Insurance Corporation commenced  
1851 before October 1, 2013, is governed by the law in effect on  
1852 September 30, 2013.

1853       Section 10. Section 627.3518, Florida Statutes, is created  
1854 to read:

1855       627.3518 Citizens Property Insurance Corporation  
1856 policyholder eligibility clearinghouse program.—The purpose of



20131770er

1857 this section is to provide a framework for the corporation to  
1858 implement a clearinghouse program by January 1, 2014.

1859 (1) As used in this section, the term:

1860 (a) "Corporation" means Citizens Property Insurance  
1861 Corporation.

1862 (b) "Exclusive agent" means any licensed insurance agent  
1863 that has, by contract, agreed to act exclusively for one company  
1864 or group of affiliated insurance companies and is disallowed by  
1865 the provisions of that contract to directly write for any other  
1866 unaffiliated insurer absent express consent from the company or  
1867 group of affiliated insurance companies.

1868 (c) "Independent agent" means any licensed insurance agent  
1869 not described in paragraph (b).

1870 (d) "Program" means the clearinghouse created under this  
1871 section.

1872 (2) In order to confirm eligibility with the corporation  
1873 and to enhance access of new applicants for coverage and  
1874 existing policyholders of the corporation to offers of coverage  
1875 from authorized insurers, the corporation shall establish a  
1876 program for personal residential risks in order to facilitate  
1877 the diversion of ineligible applicants and existing  
1878 policyholders from the corporation into the voluntary insurance  
1879 market. The corporation shall also develop appropriate  
1880 procedures for facilitating the diversion of ineligible  
1881 applicants and existing policyholders for commercial residential  
1882 coverage into the private insurance market and shall report such  
1883 procedures to the President of the Senate and the Speaker of the  
1884 House of Representatives by January 1, 2014.

1885 (3) The corporation board shall establish the clearinghouse

20131770er

1886 program as an organizational unit within the corporation. The  
1887 program shall have all the rights and responsibilities in  
1888 carrying out its duties as a licensed general lines agent, but  
1889 may not be required to employ or engage a licensed general lines  
1890 agent or to maintain an insurance agency license to carry out  
1891 its activities in the solicitation and placement of insurance  
1892 coverage. In establishing the program, the corporation may:

1893 (a) Require all new applications, and all policies due for  
1894 renewal, to be submitted for coverage to the program in order to  
1895 facilitate obtaining an offer of coverage from an authorized  
1896 insurer before binding or renewing coverage by the corporation.

1897 (b) Employ or otherwise contract with individuals or other  
1898 entities for appropriate administrative or professional services  
1899 to effectuate the plan within the corporation in accordance with  
1900 the applicable purchasing requirements under s. 627.351.

1901 (c) Enter into contracts with any authorized insurer to  
1902 participate in the program and accept an appointment by such  
1903 insurer.

1904 (d) Provide funds to operate the program. Insurers and  
1905 agents participating in the program are not required to pay a  
1906 fee to offset or partially offset the cost of the program or use  
1907 the program for renewal of policies initially written through  
1908 the clearinghouse.

1909 (e) Develop an enhanced application that includes  
1910 information to assist private insurers in determining whether to  
1911 make an offer of coverage through the program.

1912 (f) For personal lines residential risks, require, before  
1913 approving all new applications for coverage by the corporation,  
1914 that every application be subject to a period of 2 business days

20131770er

1915 when any insurer participating in the program may select the  
1916 application for coverage. The insurer may issue a binder on any  
1917 policy selected for coverage for a period of at least 30 days  
1918 but not more than 60 days.

1919 (4) Any authorized insurer may participate in the program;  
1920 however, participation is not mandatory for any insurer.  
1921 Insurers making offers of coverage to new applicants or renewal  
1922 policyholders through the program:

1923 (a) May not be required to individually appoint any agent  
1924 whose customer is underwritten and bound through the program.  
1925 Notwithstanding s. 626.112, insurers are not required to appoint  
1926 any agent on a policy underwritten through the program for as  
1927 long as that policy remains with the insurer. Insurers may, at  
1928 their election, appoint any agent whose customer is initially  
1929 underwritten and bound through the program. In the event an  
1930 insurer accepts a policy from an agent who is not appointed  
1931 pursuant to this paragraph, and thereafter elects to accept a  
1932 policy from such agent, the provisions of s. 626.112 requiring  
1933 appointment apply to the agent.

1934 (b) Must enter into a limited agency agreement with each  
1935 agent that is not appointed in accordance with paragraph (a) and  
1936 whose customer is underwritten and bound through the program.

1937 (c) Must enter into its standard agency agreement with each  
1938 agent whose customer is underwritten and bound through the  
1939 program when that agent has been appointed by the insurer  
1940 pursuant to s. 626.112.

1941 (d) Must comply with s. 627.4133(2).

1942 (e) May participate through their single-designated  
1943 managing general agent or broker; however, the provisions of

20131770er

1944 paragraph (6) (a) regarding ownership, control, and use of the  
1945 expirations continue to apply.

1946 (f) Must pay to the producing agent a commission equal to  
1947 that paid by the corporation or the usual and customary  
1948 commission paid by the insurer for that line of business,  
1949 whichever is greater.

1950 (5) Notwithstanding s. 627.3517, any applicant for new  
1951 coverage from the corporation is not eligible for coverage from  
1952 the corporation, if provided an offer of coverage from an  
1953 authorized insurer through the program at a premium that is at  
1954 or below the eligibility threshold established in s.  
1955 627.351(6)(c)5.a. Whenever an offer of coverage for a personal  
1956 lines risk is received for a policyholder of the corporation at  
1957 renewal from an authorized insurer through the program, if the  
1958 offer is equal to or less than the corporation's renewal premium  
1959 for comparable coverage, the risk is not eligible for coverage  
1960 with the corporation. In the event an offer of coverage for a  
1961 new applicant is received from an authorized insurer through the  
1962 program, and the premium offered exceeds the eligibility  
1963 threshold contained in s. 627.351(6)(c)5.a., the applicant or  
1964 insured may elect to accept such coverage, or may elect to  
1965 accept or continue coverage with the corporation. In the event  
1966 an offer of coverage for a personal lines risk is received from  
1967 an authorized insurer at renewal through the program, and the  
1968 premium offered is more than the corporation's renewal premium  
1969 for comparable coverage, the insured may elect to accept such  
1970 coverage, or may elect to accept or continue coverage with the  
1971 corporation. Sub-sub-paragraph 627.351(6)(c)5.a.(I) does not  
1972 apply to an offer of coverage from an authorized insurer

20131770er

1973 obtained through the program. An applicant for coverage from the  
1974 corporation who was previously declared ineligible for coverage  
1975 at renewal by the corporation in the previous 36 months due to  
1976 an offer of coverage pursuant to this subsection shall be  
1977 considered a renewal under this section if the corporation  
1978 determines that the authorized insurer making the offer of  
1979 coverage pursuant to this subsection continues to insure the  
1980 applicant and increased the rate on the policy in excess of the  
1981 increase allowed for the corporation under s. 627.351(6)(n)6.

1982 (6) Independent insurance agents submitting new  
1983 applications for coverage or that are the agent of record on a  
1984 renewal policy submitted to the program:

1985 (a) Are granted and must maintain ownership and the  
1986 exclusive use of expirations, records, or other written or  
1987 electronic information directly related to such applications or  
1988 renewals written through the corporation or through an insurer  
1989 participating in the program, notwithstanding s.  
1990 627.351(6)(c)5.a.(I)(B) and (II)(B). Such ownership is granted  
1991 for as long as the insured remains with the agency or until sold  
1992 or surrendered in writing by the agent. Contracts with the  
1993 corporation or required by the corporation must not amend,  
1994 modify, interfere with, or limit such rights of ownership. Such  
1995 expirations, records, or other written or electronic information  
1996 may be used to review an application, issue a policy, or for any  
1997 other purpose necessary for placing such business through the  
1998 program.

1999 (b) May not be required to be appointed by any insurer  
2000 participating in the program for policies written solely through  
2001 the program, notwithstanding the provisions of s. 626.112.

20131770er

2002           (c) May accept an appointment from any insurer  
2003 participating in the program.

2004           (d) May enter into either a standard or limited agency  
2005 agreement with the insurer, at the insurer's option.

2006  
2007 Applicants ineligible for coverage in accordance with subsection  
2008 (5) remain ineligible if their independent agent is unwilling or  
2009 unable to enter into a standard or limited agency agreement with  
2010 an insurer participating in the program.

2011           (7) Exclusive agents submitting new applications for  
2012 coverage or that are the agent of record on a renewal policy  
2013 submitted to the program:

2014           (a) Must maintain ownership and the exclusive use of  
2015 expirations, records, or other written or electronic information  
2016 directly related to such applications or renewals written  
2017 through the corporation or through an insurer participating in  
2018 the program, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and  
2019 (II)(B). Contracts with the corporation or required by the  
2020 corporation must not amend, modify, interfere with, or limit  
2021 such rights of ownership. Such expirations, records, or other  
2022 written or electronic information may be used to review an  
2023 application, issue a policy, or for any other purpose necessary  
2024 for placing such business through the program.

2025           (b) May not be required to be appointed by any insurer  
2026 participating in the program for policies written solely through  
2027 the program, notwithstanding the provisions of s. 626.112.

2028           (c) Must only facilitate the placement of an offer of  
2029 coverage from an insurer whose limited servicing agreement is  
2030 approved by that exclusive agent's exclusive insurer.

20131770er

2031 (d) May enter into a limited servicing agreement with the  
2032 insurer making an offer of coverage, and only after the  
2033 exclusive agent's insurer has approved the limited servicing  
2034 agreement terms. The exclusive agent's insurer must approve a  
2035 limited service agreement for the program for any insurer for  
2036 which it has approved a service agreement for other purposes.

2037  
2038 Applicants ineligible for coverage in accordance with subsection  
2039 (5) remain ineligible if their exclusive agent is unwilling or  
2040 unable to enter into a standard or limited agency agreement with  
2041 an insurer making an offer of coverage to that applicant.

2042 (8) Submission of an application for coverage by the  
2043 corporation to the program does not constitute the binding of  
2044 coverage by the corporation, and failure of the program to  
2045 obtain an offer of coverage by an insurer may not be considered  
2046 acceptance of coverage of the risk by the corporation.

2047 (9) The 45-day notice of nonrenewal requirement set forth  
2048 in s. 627.4133(2)(b)4.b. applies when a policy is nonrenewed by  
2049 the corporation because the risk has received an offer of  
2050 coverage pursuant to this section which renders the risk  
2051 ineligible for coverage by the corporation.

2052 (10) The program may not include commercial nonresidential  
2053 policies.

2054 Section 11. Section 627.35191, Florida Statutes, is created  
2055 to read:

2056 627.35191 Annual report of aggregate net probable maximum  
2057 losses, financing options, and potential assessments.—No later  
2058 than February 1 of each year, the Florida Hurricane Catastrophe  
2059 Fund and Citizens Property Insurance Corporation shall each

20131770er

2060 submit a report to the Legislature and the Financial Services  
2061 Commission identifying their respective aggregate net probable  
2062 maximum losses, financing options, and potential assessments.  
2063 The report issued by the fund and the corporation must include  
2064 their respective 50-year, 100-year, and 250-year probable  
2065 maximum losses; analysis of all reasonable financing strategies  
2066 for each such probable maximum loss, including the amount and  
2067 term of debt instruments; specification of the percentage  
2068 assessments that would be needed to support each of the  
2069 financing strategies; and calculations of the aggregate  
2070 assessment burden on Florida property and casualty policyholders  
2071 for each of the probable maximum losses.

2072       Section 12. Except as otherwise expressly provided in this  
2073 act, this act shall take effect July 1, 2013.