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1
2 An act relating to insurance; creating s. 489.147,
3 F.S.; providing definitions; prohibiting certain
4 practices by contractors; providing for disciplinary
5 proceedings; providing that the acts of any persons on
6 behalf of a contractor are considered the acts of a
7 contractor; providing that certain acts constitute
8 unlicensed contracting; providing penalties;
9 prohibiting a contractor from executing a contract
10 with a residential property owner for a roofing repair
11 or replacement unless certain notice is included;
12 authorizing the residential property owner to void the
13 contract within a specified timeframe when such notice
14 is not included; amending s. 624.424, F.S.; requiring
15 property insurers, effective a certain date, to
16 include certain data regarding closed claims in their
17 annual reports to the Office of Insurance Regulation;
18 requiring specified insurers to provide the office
19 with certain information under certain circumstances;
20 requiring the office to consider certain costs in
21 determining whether payments made by an insurer to an
22 affiliate are fair and reasonable; amending s.
23 626.7451, F.S.; requiring managing general agents to
24 enter into specified contracts with insurers even when
25 the managing general agents control, or are controlled
26 by, the insurers; amending s. 626.7452, F.S.;
27 providing that a managing general agent may be
28 examined as if it were the insurer even if the
29 managing general agent solely represents a single

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30 domestic insurer; amending s. 626.854, F.S.;

31 prohibiting certain acts by specified licensed

32 contractors and their subcontractors; providing

33 construction; prohibiting certain acts by a public

34 adjuster, public adjuster apprentice, and certain

35 other persons; providing that certain acts constitute

36 unlicensed practice of public adjusting; providing

37 penalties; amending s. 626.9373, F.S.; providing for

38 the award of reasonable attorney fees as provided by

39 specified provisions of law under certain

40 circumstances; amending s. 627.351, F.S.; revising a

41 procedure that the plan of operation of Citizens

42 Property Insurance Corporation must provide; requiring

43 the corporation to include the costs of catastrophe

44 reinsurance to its projected 100-year probable maximum

45 loss in its rate calculations even if the corporation

46 does not purchase such reinsurance; deleting obsolete

47 language relating to the corporation's rate filings;

48 requiring the corporation to annually implement a rate

49 increase that does not exceed a certain percent for

50 specified years; requiring the corporation's budget

51 allocations for salaries for the corporation's

52 employees, all employee raises exceeding 10 percent,

53 and an employee compensation plan for the corporation

54 to be approved by the corporation's board of

55 governors; amending s. 627.3518, F.S.; conforming a

56 cross-reference; amending s. 627.428, F.S.; providing

57 for the award of reasonable attorney fees as provided

58 by specified provisions of law under certain

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59 | circumstances; amending s. 627.70132, F.S.; revising
60 | the definitions of the terms "reopened claim" and
61 | "supplemental claim" to include all perils; providing
62 | that claims and reopened claims, but not supplemental
63 | claims, under certain property insurance policies for
64 | loss or damage caused by perils are barred unless
65 | notice is given within a specified timeframe; revising
66 | the timeframe for providing notices of property
67 | insurance claims; providing that supplemental claims
68 | are barred under certain circumstances; providing
69 | construction; amending s. 627.7015, F.S.; conforming a
70 | provision to changes made by the act; creating s.
71 | 627.70152, F.S.; providing applicability; providing
72 | definitions; requiring a claimant to provide written
73 | notice to the department before a suit is filed under
74 | an insurance policy; requiring certain information to
75 | be included in the notice; requiring a claimant to
76 | serve notice within specified time limits; requiring
77 | an insurer to provide a response to the notice within
78 | a specified timeframe; providing for tolling of time
79 | if appropriate; requiring an insurer to have a
80 | procedure for the prompt investigation, review, and
81 | evaluation of a dispute stated in the notice and to
82 | investigate each claim in the notice in accordance
83 | with the Florida Insurance Code; requiring an insurer
84 | to provide a response to the notice within a specified
85 | timeframe; requiring an insurer to provide a response
86 | in a certain manner; requiring a court to dismiss
87 | without prejudice a claimant's suit under certain

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88 circumstances; providing that the notice and
89 documentation are admissible as evidence only in
90 specified proceedings; providing construction;
91 providing that time limits are tolled under certain
92 circumstances; providing calculations and awards of
93 attorney fees and costs under certain circumstances;
94 prohibiting a court from awarding attorney fees to a
95 claimant under certain circumstances; creating s.
96 627.70153, F.S.; requiring parties that are aware of
97 certain residential property insurance claims to
98 notify the court of multiple proceedings; authorizing
99 the court to consolidate certain residential property
100 insurance claims upon notification of any party;
101 amending s. 628.801, F.S.; authorizing the office to
102 request information from an insurer or its affiliates
103 as reasonably necessary; authorizing the office to
104 obtain certain staff to conduct an examination at an
105 insurer's expense; requiring insurers to pay
106 examination expenses; giving the office the authority
107 to examine all affiliates of an insurer as reasonably
108 necessary to ascertain the insurer's financial
109 condition; prohibiting an examination of an insurer's
110 affiliate from extending to specified investors under
111 certain circumstances; providing an effective date.

112
113 Be It Enacted by the Legislature of the State of Florida:

114
115 Section 1. Section 489.147, Florida Statutes, is created to
116 read:

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117 489.147 Prohibited property insurance practices.—

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

119 (a) "Prohibited advertisement" means any written or
120 electronic communication by a contractor that encourages,
121 instructs, or induces a consumer to contact a contractor or
122 public adjuster for the purpose of making an insurance claim for
123 roof damage. The term includes, but is not limited to, door
124 hangers, business cards, magnets, flyers, pamphlets, and e-
125 mails.

126 (b) "Soliciting" means contacting:

127 1. In person;

128 2. By electronic means, including, but not limited to, e-
129 mail, telephone, and any other real-time communication directed
130 to a specific person; or

131 3. By delivery to a specific person.

132 (2) A contractor may not directly or indirectly engage in
133 any of the following practices:

134 (a) Soliciting a residential property owner by means of a
135 prohibited advertisement.

136 (b) Offering to a residential property owner a rebate,
137 gift, gift card, cash, coupon, waiver of any insurance
138 deductible, or any other thing of value in exchange for:

139 1. Allowing the contractor to conduct an inspection of the
140 residential property owner's roof; or

141 2. Making an insurance claim for damage to the residential
142 property owner's roof.

143 (c) Offering, delivering, receiving, or accepting any
144 compensation, inducement, or reward, for the referral of any
145 services for which property insurance proceeds are payable.

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146 Payment by the residential property owner or insurance company
147 to a contractor for roofing services rendered does not
148 constitute compensation for a referral.

149 (d) Interpreting policy provisions or advising an insured
150 regarding coverages or duties under the insured's property
151 insurance policy or adjusting a property insurance claim on
152 behalf of the insured, unless the contractor holds a license as
153 a public adjuster pursuant to part VI of chapter 626.

154 (e) Providing an insured with an agreement authorizing
155 repairs without providing a good faith estimate of the itemized
156 and detailed cost of services and materials for repairs
157 undertaken pursuant to a property insurance claim. A contractor
158 does not violate this paragraph if, as a result of the process
159 of the insurer adjusting a claim, the actual cost of repairs
160 differs from the initial estimate.

161 (3) A contractor who violates this section is subject to
162 disciplinary proceedings as set forth in s. 489.129. A
163 contractor may receive up to a \$10,000 fine for each violation
164 of this section.

165 (4) For the purposes of this section:

166 (a) The acts of any person on behalf of a contractor,
167 including, but not limited to, the acts of a compensated
168 employee or a nonemployee who is compensated for soliciting,
169 shall be considered the actions of the contractor.

170 (b) An unlicensed person who engages in an act prohibited
171 by this section is guilty of unlicensed contracting and is
172 subject to the penalties set forth in s. 489.13. Notwithstanding
173 s. 489.13(3), an unlicensed person who violates this section may
174 be fined up to \$10,000 for each violation.

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175 (5) A contractor may not execute a contract with a
176 residential property owner to repair or replace a roof without
177 including a notice that the contractor may not engage in the
178 practices set forth in paragraph (2) (b). If the contractor fails
179 to include such notice, the residential property owner may void
180 the contract within 10 days after executing it.

181 Section 2. Subsection (11) of section 624.424, Florida
182 Statutes, is renumbered as subsection (12), and a new subsection
183 (11) and subsection (13) are added to that section, to read:

184 624.424 Annual statement and other information.—

185 (11) Beginning January 1, 2022, each authorized insurer or
186 insurer group issuing personal lines or commercial lines
187 residential property insurance policies in this state shall file
188 with the office on an annual basis in conjunction with the
189 statements required by paragraph (1) (a) a supplemental report on
190 an individual and group basis for closed claims. The report must
191 be on a form prescribed by the commission and must include the
192 following information for each claim closed, excluding liability
193 only claims, within the reporting period in this state:

194 (a) The unique claim identification number.

195 (b) The type of policy.

196 (c) The zip code of the property where the claim occurred.

197 (d) The county where the claim occurred.

198 (e) The date of loss.

199 (f) The peril or type of loss, including information about:

200 1. The types of vendors used for mitigation, repair, or
201 replacement; and

202 2. The names of vendors used, if known.

203 (g) The date the claim was reported to insurer.

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204 (h) The initial date the claim was closed, including
205 information about whether the claim was closed with or without
206 payment.

207 (i) The date the claim was most recently reopened, if
208 applicable.

209 (j) The date a supplemental claim was filed, if applicable.

210 (k) The date the claim was most recently closed, if
211 different from the initial date the claim was closed.

212 (l) The name of the public adjuster on the claim, if any.

213 (m) The Florida Bar number and name of the attorney for the
214 claimant, if any.

215 (n) The total indemnity paid by the insurer.

216 (o) The total loss adjustment expenses paid by the insurer.

217 (p) The amount paid for claimant's attorney fees, if any.

218 (q) The amount paid in costs for claimant's attorney's
219 expenses, including, but not limited to, expert witness fees.

220 (r) The contingency risk multiplier, if any, that the
221 claimant's attorney requested to be applied in calculating the
222 attorney fees awarded to the claimant's attorney.

223 (s) The contingency risk multiplier, if any, that a court
224 applied in calculating the attorney fees awarded to the
225 claimant's attorney.

226 (t) Any other information deemed necessary by the
227 commission to provide the office with the ability to track
228 litigation and claims trends occurring in the property market.

229 (13) Each insurer doing business in this state which pays a
230 fee, commission, or other financial consideration or payment to
231 any affiliate directly or indirectly is required upon request to
232 provide to the office any information the office deems

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233 necessary. The fee, commission, or other financial consideration
234 or payment to any affiliate must be fair and reasonable. In
235 determining whether the fee, commission, or other financial
236 consideration or payment is fair and reasonable, the office
237 shall consider, among other things, the actual cost of the
238 service being provided.

239 Section 3. Subsection (6) of section 626.7451, Florida
240 Statutes, is amended to read:

241 626.7451 Managing general agents; required contract
242 provisions.—No person acting in the capacity of a managing
243 general agent shall place business with an insurer unless there
244 is in force a written contract between the parties which sets
245 forth the responsibility for a particular function, specifies
246 the division of responsibilities, and contains the following
247 minimum provisions:

248 (6) The contract shall specify appropriate underwriting
249 guidelines, including:

- 250 (a) The maximum annual premium volume.
251 (b) The basis of the rates to be charged.
252 (c) The types of risks which may be written.
253 (d) Maximum limits of liability.
254 (e) Applicable exclusions.
255 (f) Territorial limitations.
256 (g) Policy cancellation provisions.
257 (h) The maximum policy period.

258
259 ~~This subsection shall not apply when the managing general agent~~
260 ~~is a controlled or controlling person.~~
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262 For the purposes of this section and ss. 626.7453 and 626.7454,
263 the term "controlling person" or "controlling" has the meaning
264 set forth in s. 625.012(5)(b)1., and the term "controlled
265 person" or "controlled" has the meaning set forth in s.
266 625.012(5)(b)2.

267 Section 4. Section 626.7452, Florida Statutes, is amended
268 to read:

269 626.7452 Managing general agents; examination authority.—
270 The acts of the managing general agent are considered to be the
271 acts of the insurer on whose behalf it is acting. A managing
272 general agent may be examined as if it were the insurer ~~except~~
273 ~~in the case where the managing general agent solely represents a~~
274 ~~single domestic insurer.~~

275 Section 5. Subsection (15) of section 626.854, Florida
276 Statutes, is amended, and subsection (20) is added to that
277 section, to read:

278 626.854 "Public adjuster" defined; prohibitions.—The
279 legislature finds that it is necessary for the protection of the
280 public to regulate public insurance adjusters and to prevent the
281 unauthorized practice of law.

282 (15) A licensed contractor under part I of chapter 489, or
283 a subcontractor of such licensee, may not advertise, solicit,
284 offer to handle, handle, or perform public adjuster services as
285 provided in subsection (1) ~~adjust a claim on behalf of an~~
286 ~~insured~~ unless licensed and compliant as a public adjuster under
287 this chapter. The prohibition against solicitation does not
288 preclude a contractor from suggesting or otherwise recommending
289 to a consumer that the consumer consider contacting his or her
290 insurer to determine if the proposed repair is covered under the

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291 consumer's insurance policy, except as it relates to
292 solicitation prohibited in s. 489.147. In addition ~~However~~, the
293 contractor may discuss or explain a bid for construction or
294 repair of covered property with the residential property owner
295 who has suffered loss or damage covered by a property insurance
296 policy, or the insurer of such property, if the contractor is
297 doing so for the usual and customary fees applicable to the work
298 to be performed as stated in the contract between the contractor
299 and the insured.

300 (20) (a) Any following act by a public adjuster, a public
301 adjuster apprentice, or a person acting on behalf of a public
302 adjuster or public adjuster apprentice is prohibited and shall
303 result in discipline as applicable under part VI of this
304 chapter:

305 1. Offering to a residential property owner a rebate, gift,
306 gift card, cash, coupon, waiver of any insurance deductible, or
307 any other thing of value in exchange for:

308 a. Allowing a contractor, a public adjuster, a public
309 adjuster apprentice, or a person acting on behalf of a public
310 adjuster or public adjuster apprentice to conduct an inspection
311 of the residential property owner's roof; or

312 b. Making an insurance claim for damage to the residential
313 property owner's roof.

314 2. Offering, delivering, receiving, or accepting any
315 compensation, inducement, or reward for the referral of any
316 services for which property insurance proceeds would be used for
317 roofing repairs or replacement.

318 (b) Notwithstanding the fine set forth in s. 626.8698, a
319 public adjuster or public adjuster apprentice may be subject to

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320 a fine not to exceed \$10,000 per act for a violation of this
321 subsection.

322 (c) A person who engages in an act prohibited by this
323 subsection and who is not a public adjuster or a public adjuster
324 apprentice, or is not otherwise exempt from licensure, is guilty
325 of the unlicensed practice of public adjusting and may be:

326 1. Subject to all applicable penalties set forth in part VI
327 of this chapter.

328 2. Notwithstanding subparagraph 1., subject to a fine not
329 to exceed \$10,000 per act for a violation of this subsection.

330 Section 6. Subsection (1) of section 626.9373, Florida
331 Statutes, is amended to read:

332 626.9373 Attorney's fees.—

333 (1) Upon the rendition of a judgment or decree by any court
334 of this state against a surplus lines insurer in favor of any
335 named or omnibus insured or the named beneficiary under a policy
336 or contract executed by the insurer on or after the effective
337 date of this act, the trial court or, if the insured or
338 beneficiary prevails on appeal, the appellate court, shall
339 adjudge or decree against the insurer in favor of the insured or
340 beneficiary a reasonable sum as fees or compensation for the
341 insured's or beneficiary's attorney prosecuting the lawsuit for
342 which recovery is awarded. In a suit arising under a residential
343 or commercial property insurance policy not brought by an
344 assignee, the amount of reasonable attorney fees shall be
345 awarded only as provided in s. 57.105 or s. 627.70152, as
346 applicable.

347 Section 7. Paragraphs (c) and (n) of subsection (6) of
348 section 627.351, Florida Statutes, are amended, and paragraph

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349 (jj) is added to subsection (6) of that section, to read:

350 627.351 Insurance risk apportionment plans.—

351 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

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

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

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

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

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

377 e. Commercial lines nonresidential property insurance forms

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378 that cover the peril of wind only. The forms are applicable only
379 to nonresidential properties located in areas eligible for
380 coverage under the coastal account referred to in sub-
381 subparagraph (b)2.a.

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

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

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

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

396 (I) "Quota share primary insurance" means an arrangement in
397 which the primary hurricane coverage of an eligible risk is
398 provided in specified percentages by the corporation and an
399 authorized insurer. The corporation and authorized insurer are
400 each solely responsible for a specified percentage of hurricane
401 coverage of an eligible risk as set forth in a quota share
402 primary insurance agreement between the corporation and an
403 authorized insurer and the insurance contract. The
404 responsibility of the corporation or authorized insurer to pay
405 its specified percentage of hurricane losses of an eligible
406 risk, as set forth in the agreement, may not be altered by the

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407 inability of the other party to pay its specified percentage of
408 losses. Eligible risks that are provided hurricane coverage
409 through a quota share primary insurance arrangement must be
410 provided policy forms that set forth the obligations of the
411 corporation and authorized insurer under the arrangement,
412 clearly specify the percentages of quota share primary insurance
413 provided by the corporation and authorized insurer, and
414 conspicuously and clearly state that the authorized insurer and
415 the corporation may not be held responsible beyond their
416 specified percentage of coverage of hurricane losses.

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

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

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

431 d. Any quota share primary insurance agreement entered into
432 between an authorized insurer and the corporation must provide
433 for a uniform specified percentage of coverage of hurricane
434 losses, by county or territory as set forth by the corporation
435 board, for all eligible risks of the authorized insurer covered

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436 under the agreement.

437 e. Any quota share primary insurance agreement entered into
438 between an authorized insurer and the corporation is subject to
439 review and approval by the office. However, such agreement shall
440 be authorized only as to insurance contracts entered into
441 between an authorized insurer and an insured who is already
442 insured by the corporation for wind coverage.

443 f. For all eligible risks covered under quota share primary
444 insurance agreements, the exposure and coverage levels for both
445 the corporation and authorized insurers shall be reported by the
446 corporation to the Florida Hurricane Catastrophe Fund. For all
447 policies of eligible risks covered under such agreements, the
448 corporation and the authorized insurer must maintain complete
449 and accurate records for the purpose of exposure and loss
450 reimbursement audits as required by fund rules. The corporation
451 and the authorized insurer shall each maintain duplicate copies
452 of policy declaration pages and supporting claims documents.

453 g. The corporation board shall establish in its plan of
454 operation standards for quota share agreements which ensure that
455 there is no discriminatory application among insurers as to the
456 terms of the agreements, pricing of the agreements, incentive
457 provisions if any, and consideration paid for servicing policies
458 or adjusting claims.

459 h. The quota share primary insurance agreement between the
460 corporation and an authorized insurer must set forth the
461 specific terms under which coverage is provided, including, but
462 not limited to, the sale and servicing of policies issued under
463 the agreement by the insurance agent of the authorized insurer
464 producing the business, the reporting of information concerning

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465 eligible risks, the payment of premium to the corporation, and
466 arrangements for the adjustment and payment of hurricane claims
467 incurred on eligible risks by the claims adjuster and personnel
468 of the authorized insurer. Entering into a quota sharing
469 insurance agreement between the corporation and an authorized
470 insurer is voluntary and at the discretion of the authorized
471 insurer.

472 3. May provide that the corporation may employ or otherwise
473 contract with individuals or other entities to provide
474 administrative or professional services that may be appropriate
475 to effectuate the plan. The corporation may borrow funds by
476 issuing bonds or by incurring other indebtedness, and shall have
477 other powers reasonably necessary to effectuate the requirements
478 of this subsection, including, without limitation, the power to
479 issue bonds and incur other indebtedness in order to refinance
480 outstanding bonds or other indebtedness. The corporation may
481 seek judicial validation of its bonds or other indebtedness
482 under chapter 75. The corporation may issue bonds or incur other
483 indebtedness, or have bonds issued on its behalf by a unit of
484 local government pursuant to subparagraph (q)2. in the absence
485 of a hurricane or other weather-related event, upon a
486 determination by the corporation, subject to approval by the
487 office, that such action would enable it to efficiently meet the
488 financial obligations of the corporation and that such
489 financings are reasonably necessary to effectuate the
490 requirements of this subsection. The corporation may take all
491 actions needed to facilitate tax-free status for such bonds or
492 indebtedness, including formation of trusts or other affiliated
493 entities. The corporation may pledge assessments, projected

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494 recoveries from the Florida Hurricane Catastrophe Fund, other
495 reinsurance recoverables, policyholder surcharges and other
496 surcharges, and other funds available to the corporation as
497 security for bonds or other indebtedness. In recognition of s.
498 10, Art. I of the State Constitution, prohibiting the impairment
499 of obligations of contracts, it is the intent of the Legislature
500 that no action be taken whose purpose is to impair any bond
501 indenture or financing agreement or any revenue source committed
502 by contract to such bond or other indebtedness.

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

512 a. The Governor, the Chief Financial Officer, the President
513 of the Senate, and the Speaker of the House of Representatives
514 shall each appoint two members of the board. At least one of the
515 two members appointed by each appointing officer must have
516 demonstrated expertise in insurance and be deemed to be within
517 the scope of the exemption provided in s. 112.313(7) (b). The
518 Chief Financial Officer shall designate one of the appointees as
519 chair. All board members serve at the pleasure of the appointing
520 officer. All members of the board are subject to removal at will
521 by the officers who appointed them. All board members, including
522 the chair, must be appointed to serve for 3-year terms beginning

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523 annually on a date designated by the plan. However, for the
524 first term beginning on or after July 1, 2009, each appointing
525 officer shall appoint one member of the board for a 2-year term
526 and one member for a 3-year term. A board vacancy shall be
527 filled for the unexpired term by the appointing officer. The
528 Chief Financial Officer shall appoint a technical advisory group
529 to provide information and advice to the board in connection
530 with the board's duties under this subsection. The executive
531 director and senior managers of the corporation shall be engaged
532 by the board and serve at the pleasure of the board. Any
533 executive director appointed on or after July 1, 2006, is
534 subject to confirmation by the Senate. The executive director is
535 responsible for employing other staff as the corporation may
536 require, subject to review and concurrence by the board.

537 b. The board shall create a Market Accountability Advisory
538 Committee to assist the corporation in developing awareness of
539 its rates and its customer and agent service levels in
540 relationship to the voluntary market insurers writing similar
541 coverage.

542 (I) The members of the advisory committee consist of the
543 following 11 persons, one of whom must be elected chair by the
544 members of the committee: four representatives, one appointed by
545 the Florida Association of Insurance Agents, one by the Florida
546 Association of Insurance and Financial Advisors, one by the
547 Professional Insurance Agents of Florida, and one by the Latin
548 American Association of Insurance Agencies; three
549 representatives appointed by the insurers with the three highest
550 voluntary market share of residential property insurance
551 business in the state; one representative from the Office of

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552 Insurance Regulation; one consumer appointed by the board who is
553 insured by the corporation at the time of appointment to the
554 committee; one representative appointed by the Florida
555 Association of Realtors; and one representative appointed by the
556 Florida Bankers Association. All members shall be appointed to
557 3-year terms and may serve for consecutive terms.

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

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

566 a. Subject to s. 627.3517, with respect to personal lines
567 residential risks, if the risk is offered coverage from an
568 authorized insurer at the insurer's approved rate under a
569 standard policy including wind coverage or, if consistent with
570 the insurer's underwriting rules as filed with the office, a
571 basic policy including wind coverage, for a new application to
572 the corporation for coverage, the risk is not eligible for any
573 policy issued by the corporation unless the premium for coverage
574 from the authorized insurer is more than 20 ~~15~~ percent greater
575 than the premium for comparable coverage from the corporation.
576 Whenever an offer of coverage for a personal lines residential
577 risk is received for a policyholder of the corporation at
578 renewal from an authorized insurer, if the offer is equal to or
579 less than the corporation's renewal premium for comparable
580 coverage, the risk is not eligible for coverage with the

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581 corporation. If the risk is not able to obtain such offer, the
582 risk is eligible for a standard policy including wind coverage
583 or a basic policy including wind coverage issued by the
584 corporation; however, if the risk could not be insured under a
585 standard policy including wind coverage regardless of market
586 conditions, the risk is eligible for a basic policy including
587 wind coverage unless rejected under subparagraph 8. However, a
588 policyholder removed from the corporation through an assumption
589 agreement remains eligible for coverage from the corporation
590 until the end of the assumption period. The corporation shall
591 determine the type of policy to be provided on the basis of
592 objective standards specified in the underwriting manual and
593 based on generally accepted underwriting practices.

594 (I) If the risk accepts an offer of coverage through the
595 market assistance plan or through a mechanism established by the
596 corporation other than a plan established by s. 627.3518, before
597 a policy is issued to the risk by the corporation or during the
598 first 30 days of coverage by the corporation, and the producing
599 agent who submitted the application to the plan or to the
600 corporation is not currently appointed by the insurer, the
601 insurer shall:

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

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

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610 corporation's usual and customary commission for the type of
611 policy written.

612
613 If the producing agent is unwilling or unable to accept
614 appointment, the new insurer shall pay the agent in accordance
615 with sub-sub-sub-subparagraph (A).

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

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

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

629
630 If the producing agent is unwilling or unable to accept
631 appointment, the new insurer shall pay the agent in accordance
632 with sub-sub-sub-subparagraph (A).

633 b. With respect to commercial lines residential risks, for
634 a new application to the corporation for coverage, if the risk
635 is offered coverage under a policy including wind coverage from
636 an authorized insurer at its approved rate, the risk is not
637 eligible for a policy issued by the corporation unless the
638 premium for coverage from the authorized insurer is more than 15

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639 percent greater than the premium for comparable coverage from
640 the corporation. Whenever an offer of coverage for a commercial
641 lines residential risk is received for a policyholder of the
642 corporation at renewal from an authorized insurer, if the offer
643 is equal to or less than the corporation's renewal premium for
644 comparable coverage, the risk is not eligible for coverage with
645 the corporation. If the risk is not able to obtain any such
646 offer, the risk is eligible for a policy including wind coverage
647 issued by the corporation. However, a policyholder removed from
648 the corporation through an assumption agreement remains eligible
649 for coverage from the corporation until the end of the
650 assumption period.

651 (I) If the risk accepts an offer of coverage through the
652 market assistance plan or through a mechanism established by the
653 corporation other than a plan established by s. 627.3518, before
654 a policy is issued to the risk by the corporation or during the
655 first 30 days of coverage by the corporation, and the producing
656 agent who submitted the application to the plan or the
657 corporation is not currently appointed by the insurer, the
658 insurer shall:

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

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

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668 policy written.

669

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

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

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

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

686

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

690 c. For purposes of determining comparable coverage under
691 sub-subparagraphs a. and b., the comparison must be based on
692 those forms and coverages that are reasonably comparable. The
693 corporation may rely on a determination of comparable coverage
694 and premium made by the producing agent who submits the
695 application to the corporation, made in the agent's capacity as
696 the corporation's agent. A comparison may be made solely of the

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697 premium with respect to the main building or structure only on
698 the following basis: the same coverage A or other building
699 limits; the same percentage hurricane deductible that applies on
700 an annual basis or that applies to each hurricane for commercial
701 residential property; the same percentage of ordinance and law
702 coverage, if the same limit is offered by both the corporation
703 and the authorized insurer; the same mitigation credits, to the
704 extent the same types of credits are offered both by the
705 corporation and the authorized insurer; the same method for loss
706 payment, such as replacement cost or actual cash value, if the
707 same method is offered both by the corporation and the
708 authorized insurer in accordance with underwriting rules; and
709 any other form or coverage that is reasonably comparable as
710 determined by the board. If an application is submitted to the
711 corporation for wind-only coverage in the coastal account, the
712 premium for the corporation's wind-only policy plus the premium
713 for the ex-wind policy that is offered by an authorized insurer
714 to the applicant must be compared to the premium for multiperil
715 coverage offered by an authorized insurer, subject to the
716 standards for comparison specified in this subparagraph. If the
717 corporation or the applicant requests from the authorized
718 insurer a breakdown of the premium of the offer by types of
719 coverage so that a comparison may be made by the corporation or
720 its agent and the authorized insurer refuses or is unable to
721 provide such information, the corporation may treat the offer as
722 not being an offer of coverage from an authorized insurer at the
723 insurer's approved rate.

724 6. Must include rules for classifications of risks and
725 rates.

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

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

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

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

744
745 The acceptance or rejection of a risk by the corporation shall
746 be construed as the private placement of insurance, and the
747 provisions of chapter 120 do not apply.

748 9. Must provide that the corporation make its best efforts
749 to procure catastrophe reinsurance at reasonable rates, to cover
750 its projected 100-year probable maximum loss as determined by
751 the board of governors. If catastrophe reinsurance is not
752 available at reasonable rates, the corporation need not purchase
753 it, but the corporation shall include the costs of reinsurance
754 to cover its projected 100-year probable maximum loss in its

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755 rate calculations even if it does not purchase catastrophe
756 reinsurance.

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

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

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

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784 13. Must provide that, with respect to the coastal account,
785 any assessable insurer with a surplus as to policyholders of \$25
786 million or less writing 25 percent or more of its total
787 countrywide property insurance premiums in this state may
788 petition the office, within the first 90 days of each calendar
789 year, to qualify as a limited apportionment company. A regular
790 assessment levied by the corporation on a limited apportionment
791 company for a deficit incurred by the corporation for the
792 coastal account may be paid to the corporation on a monthly
793 basis as the assessments are collected by the limited
794 apportionment company from its insureds, but a limited
795 apportionment company must begin collecting the regular
796 assessments not later than 90 days after the regular assessments
797 are levied by the corporation, and the regular assessments must
798 be paid in full within 15 months after being levied by the
799 corporation. A limited apportionment company shall collect from
800 its policyholders any emergency assessment imposed under sub-
801 subparagraph (b)3.d. The plan must provide that, if the office
802 determines that any regular assessment will result in an
803 impairment of the surplus of a limited apportionment company,
804 the office may direct that all or part of such assessment be
805 deferred as provided in subparagraph (q)4. However, an emergency
806 assessment to be collected from policyholders under sub-
807 subparagraph (b)3.d. may not be limited or deferred.

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

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813 commercial residential property coverage, or commercial
814 nonresidential property coverage within the state.

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

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

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

825 a. Screened enclosures that are aluminum framed or screened
826 enclosures that are not covered by the same or substantially the
827 same materials as those of the primary dwelling;

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

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

834

835 The corporation shall make available a policy for mobile homes
836 or manufactured homes for a minimum insured value of at least
837 \$3,000.

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

840 19. May require commercial property to meet specified
841 hurricane mitigation construction features as a condition of

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842 eligibility for coverage.

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

852 21. As of January 1, 2012, must require that the agent
853 obtain from an applicant for coverage from the corporation an
854 acknowledgment signed by the applicant, which includes, at a
855 minimum, the following statement:

856
857 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE
858 AND ASSESSMENT LIABILITY:

859
860 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
861 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
862 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
863 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
864 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE
865 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT
866 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
867 LEGISLATURE.

868 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER
869 SURCHARGE, WHICH COULD BE AS HIGH AS 45 PERCENT OF MY PREMIUM,
870 BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO

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871 BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN
872 PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE
873 WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES
874 ARE REGULATED AND APPROVED BY THE STATE.

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

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

882
883 a. The corporation shall maintain, in electronic format or
884 otherwise, a copy of the applicant's signed acknowledgment and
885 provide a copy of the statement to the policyholder as part of
886 the first renewal after the effective date of this subparagraph.

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

891 (n)1. Rates for coverage provided by the corporation must
892 be actuarially sound and subject to s. 627.062, except as
893 otherwise provided in this paragraph. The corporation shall file
894 its recommended rates with the office at least annually. The
895 corporation shall provide any additional information regarding
896 the rates which the office requires. The office shall consider
897 the recommendations of the board and issue a final order
898 establishing the rates for the corporation within 45 days after
899 the recommended rates are filed. The corporation may not pursue

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900 an administrative challenge or judicial review of the final
901 order of the office.

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

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

916 ~~4. The rate filings for the corporation which were approved~~
917 ~~by the office and took effect January 1, 2007, are rescinded,~~
918 ~~except for those rates that were lowered. As soon as possible,~~
919 ~~the corporation shall begin using the lower rates that were in~~
920 ~~effect on December 31, 2006, and provide refunds to~~
921 ~~policyholders who paid higher rates as a result of that rate~~
922 ~~filing. The rates in effect on December 31, 2006, remain in~~
923 ~~effect for the 2007 and 2008 calendar years except for any rate~~
924 ~~change that results in a lower rate. The next rate change that~~
925 ~~may increase rates shall take effect pursuant to a new rate~~
926 ~~filing recommended by the corporation and established by the~~
927 ~~office, subject to this paragraph.~~

928 ~~4.5. Beginning on July 15, 2009, and annually thereafter,~~

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929 The corporation must make a recommended actuarially sound rate
930 filing for each personal and commercial line of business it
931 writes, ~~to be effective no earlier than January 1, 2010.~~

932 ~~5.6. Beginning on or after January 1, 2010, and~~
933 Notwithstanding the board's recommended rates and the office's
934 final order regarding the corporation's filed rates under
935 subparagraph 1., the corporation shall annually implement a rate
936 increase which, except for sinkhole coverage, does not exceed
937 the following 10 percent for any single policy issued by the
938 corporation, excluding coverage changes and surcharges:

- 939 a. Eleven percent for 2022.
940 b. Twelve percent for 2023.
941 c. Thirteen percent for 2024.
942 d. Fourteen percent for 2025.
943 e. Fifteen percent for 2026 and all subsequent years.

944 ~~6.7.~~ The corporation may also implement an increase to
945 reflect the effect on the corporation of the cash buildup factor
946 pursuant to s. 215.555(5)(b).

947 ~~7.8.~~ The corporation's implementation of rates as
948 prescribed in subparagraph 5. 6. shall cease for any line of
949 business written by the corporation upon the corporation's
950 implementation of actuarially sound rates. Thereafter, the
951 corporation shall annually make a recommended actuarially sound
952 rate filing for each commercial and personal line of business
953 the corporation writes.

954 (jj) The corporation's budget allocations for the
955 compensation of all corporation employees and any proposed raise
956 for an individual employee exceeding 10 percent of that
957 employee's current salary must be approved by the board of

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958 governors. The corporation must have an overall employee
959 compensation plan approved by the board of governors.

960 Section 8. Subsection (5) of section 627.3518, Florida
961 Statutes, is amended to read:

962 627.3518 Citizens Property Insurance Corporation
963 policyholder eligibility clearinghouse program.—The purpose of
964 this section is to provide a framework for the corporation to
965 implement a clearinghouse program by January 1, 2014.

966 (5) Notwithstanding s. 627.3517, any applicant for new
967 coverage from the corporation is not eligible for coverage from
968 the corporation if provided an offer of coverage from an
969 authorized insurer through the program at a premium that is at
970 or below the eligibility threshold established in s.

971 627.351(6)(c)5.a. Whenever an offer of coverage for a personal
972 lines risk is received for a policyholder of the corporation at
973 renewal from an authorized insurer through the program, if the
974 offer is equal to or less than the corporation's renewal premium
975 for comparable coverage, the risk is not eligible for coverage
976 with the corporation. In the event an offer of coverage for a
977 new applicant is received from an authorized insurer through the
978 program, and the premium offered exceeds the eligibility
979 threshold contained in s. 627.351(6)(c)5.a., the applicant or
980 insured may elect to accept such coverage, or may elect to
981 accept or continue coverage with the corporation. In the event
982 an offer of coverage for a personal lines risk is received from
983 an authorized insurer at renewal through the program, and the
984 premium offered is more than the corporation's renewal premium
985 for comparable coverage, the insured may elect to accept such
986 coverage, or may elect to accept or continue coverage with the

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987 corporation. Section 627.351(6)(c)5.a.(I) does not apply to an
988 offer of coverage from an authorized insurer obtained through
989 the program. An applicant for coverage from the corporation who
990 was declared ineligible for coverage at renewal by the
991 corporation in the previous 36 months due to an offer of
992 coverage pursuant to this subsection shall be considered a
993 renewal under this section if the corporation determines that
994 the authorized insurer making the offer of coverage pursuant to
995 this subsection continues to insure the applicant and increased
996 the rate on the policy in excess of the increase allowed for the
997 corporation under s. 627.351(6)(n)5. ~~s. 627.351(6)(n)6.~~

998 Section 9. Subsection (1) of section 627.428, Florida
999 Statutes, is amended to read:

1000 627.428 Attorney fees.—

1001 (1) Upon the rendition of a judgment or decree by any of
1002 the courts of this state against an insurer and in favor of any
1003 named or omnibus insured or the named beneficiary under a policy
1004 or contract executed by the insurer, the trial court or, in the
1005 event of an appeal in which the insured or beneficiary prevails,
1006 the appellate court shall adjudge or decree against the insurer
1007 and in favor of the insured or beneficiary a reasonable sum as
1008 fees or compensation for the insured's or beneficiary's attorney
1009 prosecuting the suit in which the recovery is had. In a suit
1010 arising under a residential or commercial property insurance
1011 policy not brought by an assignee, the amount of reasonable
1012 attorney fees shall be awarded only as provided in s. 57.105 or
1013 s. 627.70152, as applicable.

1014 Section 10. Section 627.70132, Florida Statutes, is amended
1015 to read:

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1016 627.70132 Notice of property insurance ~~windstorm or~~
1017 ~~hurricane~~ claim.—

1018 (1) As used in this section, the term:

1019 (a) "Reopened claim" means a claim that an insurer has
1020 previously closed, but that has been reopened upon an insured's
1021 request for additional costs for loss or damage previously
1022 disclosed to the insurer.

1023 (b) "Supplemental claim" means a claim for additional loss
1024 or damage from the same peril which the insurer has previously
1025 adjusted or for which costs have been incurred while completing
1026 repairs or replacement pursuant to an open claim for which
1027 timely notice was previously provided to the insurer.

1028 (2) A claim or reopened claim, but not a supplemental
1029 claim, or ~~reopened claim~~ under an insurance policy that provides
1030 property insurance, as defined in s. 624.604, including a
1031 property insurance policy issued by an eligible surplus lines
1032 insurer, for loss or damage caused by any the peril of ~~windstorm~~
1033 ~~or hurricane~~ is barred unless notice of the claim, ~~supplemental~~
1034 ~~claim, or reopened claim~~ was given to the insurer in accordance
1035 with the terms of the policy within 2 3 years after the date of
1036 loss ~~hurricane first made landfall or the windstorm caused the~~
1037 ~~covered damage. A supplemental claim is barred unless notice of~~
1038 the supplemental claim was given to the insurer in accordance
1039 with the terms of the policy within 3 years after the date of
1040 loss.

1041 (3) For claims resulting from hurricanes, tornadoes,
1042 windstorms, severe rain, or other weather-related events, the
1043 date of loss is the date that the hurricane made landfall or the
1044 tornado, windstorm, severe rain, or other weather-related event

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1045 is verified by the National Oceanic and Atmospheric
1046 Administration ~~For purposes of this section, the term~~
1047 ~~"supplemental claim" or "reopened claim" means any additional~~
1048 ~~claim for recovery from the insurer for losses from the same~~
1049 ~~hurricane or windstorm which the insurer has previously adjusted~~
1050 ~~pursuant to the initial claim.~~

1051 (4) This section does not affect any applicable limitation
1052 on civil actions provided in s. 95.11 for claims, supplemental
1053 claims, or reopened claims timely filed under this section.

1054 Section 11. Paragraph (e) of subsection (9) of section
1055 627.7015, Florida Statutes, is amended to read:

1056 627.7015 Alternative procedure for resolution of disputed
1057 property insurance claims.—

1058 (9) For purposes of this section, the term "claim" refers
1059 to any dispute between an insurer and a policyholder relating to
1060 a material issue of fact other than a dispute:

1061 (a) With respect to which the insurer has a reasonable
1062 basis to suspect fraud;

1063 (b) When, based on agreed-upon facts as to the cause of
1064 loss, there is no coverage under the policy;

1065 (c) With respect to which the insurer has a reasonable
1066 basis to believe that the policyholder has intentionally made a
1067 material misrepresentation of fact which is relevant to the
1068 claim, and the entire request for payment of a loss has been
1069 denied on the basis of the material misrepresentation;

1070 (d) With respect to which the amount in controversy is less
1071 than \$500, unless the parties agree to mediate a dispute
1072 involving a lesser amount; or

1073 (e) With respect to a ~~windstorm or hurricane~~ loss that does

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1074 not comply with s. 627.70132.

1075 Section 12. Section 627.70152, Florida Statutes, is created
1076 to read:

1077 627.70152 Suits arising under a property insurance policy.-

1078 (1) APPLICATION.-This section applies exclusively to all
1079 suits not brought by an assignee arising under a residential or
1080 commercial property insurance policy, including a residential or
1081 commercial property insurance policy issued by an eligible
1082 surplus lines insurer.

1083 (2) DEFINITIONS.-As used in this section, the term:

1084 (a) "Amount obtained" means damages recovered, if any, but
1085 the term does not include any amount awarded for attorney fees,
1086 costs, or interest.

1087 (b) "Claimant" means an insured who is filing suit under a
1088 residential or commercial property insurance policy.

1089 (c) "Disputed amount" means the difference between the
1090 claimant's presuit settlement demand, not including attorney
1091 fees and costs listed in the demand, and the insurer's presuit
1092 settlement offer, not including attorney fees and costs, if part
1093 of the offer.

1094 (d) "Presuit settlement demand" means the demand made by
1095 the claimant in the written notice of intent to initiate
1096 litigation as required by paragraph (3)(e). The demand must
1097 include the amount of reasonable and necessary attorney fees and
1098 costs incurred by the claimant, to be calculated by multiplying
1099 the number of hours actually worked on the claim by the
1100 claimant's attorney as of the date of the notice by a reasonable
1101 hourly rate.

1102 (e) "Presuit settlement offer" means the offer made by the

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1103 insurer in its written response to the notice as required by
1104 subsection (3).

1105 (3) NOTICE.—

1106 (a) As a condition precedent to filing a suit under a
1107 property insurance policy, a claimant must provide the
1108 department with written notice of intent to initiate litigation
1109 on a form provided by the department. Such notice must be given
1110 at least 10 business days before filing suit under the policy,
1111 but may not be given before the insurer has made a determination
1112 of coverage under s. 627.70131. Notice to the insurer must be
1113 provided by the department to the e-mail address designated by
1114 the insurer under s. 624.422. The notice must state with
1115 specificity all of the following information:

1116 1. That the notice is provided pursuant to this section.

1117 2. The alleged acts or omissions of the insurer giving rise
1118 to the suit, which may include a denial of coverage.

1119 3. If provided by an attorney or other representative, that
1120 a copy of the notice was provided to the claimant.

1121 4. If the notice is provided following a denial of
1122 coverage, an estimate of damages, if known.

1123 5. If the notice is provided following acts or omissions by
1124 the insurer other than denial of coverage, both of the
1125 following:

1126 a. The presuit settlement demand, which must itemize the
1127 damages, attorney fees, and costs.

1128 b. The disputed amount.

1129
1130 Documentation to support the information provided in this
1131 paragraph may be provided along with the notice to the insurer.

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1132 (b) A claimant must serve a notice of intent to initiate
1133 litigation within the time limits provided in s. 95.11. However,
1134 the notice is not required if the suit is a counterclaim.
1135 Service of a notice tolls the time limits provided in s. 95.11
1136 for 10 business days if such time limits will expire before the
1137 end of the 10-day notice period.

1138 (4) INSURER DUTIES.—An insurer must have a procedure for
1139 the prompt investigation, review, and evaluation of the dispute
1140 stated in the notice and must investigate each claim contained
1141 in the notice in accordance with the Florida Insurance Code.
1142 An insurer must respond in writing within 10 business days after
1143 receiving the notice specified in subsection (3). The insurer
1144 must provide the response to the claimant by e-mail if the
1145 insured has designated an e-mail address in the notice.

1146 (a) If an insurer is responding to a notice served on the
1147 insurer following a denial of coverage by the insurer, the
1148 insurer must respond by:

- 1149 1. Accepting coverage;
1150 2. Continuing to deny coverage; or
1151 3. Asserting the right to reinspect the damaged property.

1152 If the insurer responds by asserting the right to reinspect the
1153 damaged property, it has 14 business days after the response
1154 asserting that right to reinspect the property and accept or
1155 continue to deny coverage. The time limits provided in s. 95.11
1156 are tolled during the reinspection period if such time limits
1157 expire before the end of the reinspection period. If the insurer
1158 continues to deny coverage, the claimant may file suit without
1159 providing additional notice to the insurer.

1160 (b) If an insurer is responding to a notice provided to the

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1161 insurer alleging an act or omission by the insurer other than a
1162 denial of coverage, the insurer must respond by making a
1163 settlement offer or requiring the claimant to participate in
1164 appraisal or another method of alternative dispute resolution.
1165 The time limits provided in s. 95.11 are tolled as long as
1166 appraisal or other alternative dispute resolution is ongoing if
1167 such time limits expire during the appraisal process or dispute
1168 resolution process. If the appraisal or alternative dispute
1169 resolution has not been concluded within 90 days after the
1170 expiration of the 10-day notice of intent to initiate litigation
1171 specified in subsection (3), the claimant or claimant's attorney
1172 may immediately file suit without providing the insurer
1173 additional notice.

1174 (5) DISMISSAL OF SUIT.—A court must dismiss without
1175 prejudice any claimant's suit relating to a claim for which a
1176 notice of intent to initiate litigation was not given as
1177 required by this section or if such suit is commenced before the
1178 expiration of any time period provided under subsection (4), as
1179 applicable.

1180 (6) ADMISSIBILITY OF NOTICE AND RESPONSE.—The notice
1181 provided pursuant to subsection (3) and, if applicable, the
1182 documentation to support the information provided in the notice:

1183 (a) Are admissible as evidence only in a proceeding
1184 regarding attorney fees.

1185 (b) Do not limit the evidence of attorney fees or costs,
1186 damages, or loss which may be offered at trial.

1187 (c) Do not relieve any obligation that an insured or
1188 assignee has to give notice under any other provision of law.

1189 (7) TOLLING.—If a claim is not resolved during the presuit

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1190 notice process and if the time limits provided in s. 95.11
1191 expire in the 30 days following the conclusion of the presuit
1192 notice process, such time limits are tolled for 30 days.

1193 (8) ATTORNEY FEES.—

1194 (a) In a suit arising under a residential or commercial
1195 property insurance policy not brought by an assignee, the amount
1196 of reasonable attorney fees and costs under s. 626.9373(1) or s.
1197 627.428(1) shall be calculated and awarded as follows:

1198 1. If the difference between the amount obtained by the
1199 claimant and the presuit settlement offer, excluding reasonable
1200 attorney fees and costs, is less than 20 percent of the disputed
1201 amount, each party pays its own attorney fees and costs and a
1202 claimant may not be awarded attorney fees under s. 626.9373(1)
1203 or s. 627.428(1).

1204 2. If the difference between the amount obtained by the
1205 claimant and the presuit settlement offer, excluding reasonable
1206 attorney fees and costs, is at least 20 percent but less than 50
1207 percent of the disputed amount, the insurer pays the claimant's
1208 attorney fees and costs under s. 626.9373(1) or s. 627.428(1)
1209 equal to the percentage of the disputed amount obtained times
1210 the total attorney fees and costs.

1211 3. If the difference between the amount obtained by the
1212 claimant and the presuit settlement offer, excluding reasonable
1213 attorney fees and costs, is at least 50 percent of the disputed
1214 amount, the insurer pays the claimant's full attorney fees and
1215 costs under s. 626.9373(1) or s. 627.428(1).

1216 (b) In a suit arising under a residential or commercial
1217 property insurance policy not brought by an assignee, if a court
1218 dismisses a claimant's suit pursuant to subsection (5), the

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1219 court may not award to the claimant any incurred attorney fees
1220 for services rendered before the dismissal of the suit.

1221 Section 13. Section 627.70153, Florida Statutes, is created
1222 to read:

1223 627.70153 Consolidation of residential property insurance
1224 actions.—Each party that is aware of ongoing multiple actions
1225 involving coverage provided under the same residential property
1226 insurance policy for the same property with the same owners must
1227 provide written notice to the court of the multiple actions.
1228 Upon notification of any party, the court may order that the
1229 actions be consolidated and transferred to the court having
1230 jurisdiction based on the total amount in controversy of all
1231 consolidated claims. If multiple cases are pending in circuit
1232 courts, the cases may be consolidated based on the date on which
1233 the first case was filed.

1234 Section 14. Subsection (3) of section 628.801, Florida
1235 Statutes, is amended to read:

1236 628.801 Insurance holding companies; registration;
1237 regulation.—

1238 (3) In addition to the powers which the office has under
1239 ~~Effective January 1, 2015, pursuant to~~ chapter 624 relating to
1240 the examination of insurers, the office may examine any insurer
1241 registered under this section and its affiliates to ascertain
1242 the financial condition of the insurer, including the enterprise
1243 risk to the insurer by the ultimate controlling party, or by any
1244 entity or combination of entities within the insurance holding
1245 company system, or by the insurance holding company system on a
1246 consolidated basis.

1247 (a) The office may require any insurer registered under

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1248 this section to produce such records, books, or other
1249 information and papers in the possession of the insurer or its
1250 affiliates as are reasonably necessary.

1251 (b) The office may retain at the registered insurer's
1252 expense such attorneys, actuaries, accountants and other experts
1253 not otherwise a part of the office's staff as shall be
1254 reasonably necessary to assist in the conduct of the examination
1255 under this subsection. Any persons so retained shall be under
1256 the direction and control of the office and shall act in a
1257 purely advisory capacity.

1258 (c) Each registered insurer producing for examination
1259 records, books, and papers pursuant to this subsection is liable
1260 for and shall pay the expense of examination in accordance with
1261 s. 624.320.

1262 (d) The office shall have the power to examine the
1263 affiliates of the registered insurer. The scope of the
1264 examination of an insurer's affiliates under this subsection
1265 must be limited to information reasonably necessary. An
1266 examination of an insurer's affiliate under this section, unless
1267 reasonably necessary to ascertain the financial condition of the
1268 insurer, may not extend to the passive investors of affiliates
1269 in the holding company system which do not provide services
1270 directly or indirectly to the insurer or have direct or indirect
1271 relationships with the insurer.

1272 Section 15. This act shall take effect July 1, 2021.