

**AGENDA
FINANCIAL SERVICES COMMISSION
Office of Insurance Regulation**

July 28, 2009

MEMBERS

Governor Charlie Crist
Attorney General Bill McCollum
Chief Financial Officer Alex Sink
Commissioner Charles Bronson

**Contact: Monte Stevens
(850-413-2571)**

9:00 A. M.
LL-03, The Capitol
Tallahassee, Florida

<u>ITEM</u>	<u>SUBJECT</u>	<u>RECOMMENDATION</u>
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1. Minutes of the Financial Services Commission for May 13, 2009.

(ATTACHMENT 1)

FOR APPROVAL

2. Request for Approval for Publication of Proposed Rule 69O-138.001;NAIC Financial Condition Examiners Handbook, Adopted

Section 624.316, Florida Statutes, requires the Office to examine the affairs, transactions, accounts and records of authorized insurers. The law allows the Commission to adopt by rule the Financial Condition Examiners Handbook of the National Association of Insurance Commissioners (NAIC), in order to facilitate uniformity in examinations and reduce the frictional costs of doing business in Florida.

This rule is being amended to adopt the 2009 NAIC Financial Condition Examiners Handbook. The current rule adopted the 2008version.

(ATTACHMENT 2)

APPROVAL FOR PUBLICATION

3. Request for Approval for Publication of Proposed Rule 69O-137.001; Annual and Quarterly Reporting Requirements

Section 624.424, Florida Statutes, requires every authorized insurer to file annual and quarterly statements of its financial condition with the Office of Insurance Regulation (Office). To allow uniformity in filing, the Legislature permitted the Financial Services Commission to adopt, by rule, the form for financial statements approved by the NAIC. This rule is being amended to adopt the 2009 NAIC manuals for annual and quarterly statements and the 2009 NAIC accounting practices and

procedures manual. The 2009 version is the latest version of these manuals. The will replace the current rule which adopted the 2008 version.

(ATTACHMENT 3)

APPROVAL FOR PUBLICATION

4. Citizens Property Insurance Corporation Plan of Operation

(ATTACHMENT 4)

FOR APPROVAL

**Minutes of the Financial Services Commission
May 13, 2009**

<i>Members</i> Charlie Crist, Governor Alex Sink, Chief Financial Officer Bill McCollum, Attorney General Charles Bronson, Agriculture Commissioner	Presented by: Kevin McCarty Cabinet Meeting Room, Lower Level, The Capitol Tallahassee, Florida 32399
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Item 1: Request for approval for the minutes of the March 10, 2009 meeting of the Financial Services Commission

Upon motion by Attorney General Bill McCollum and seconded by Agriculture Commissioner Charles Bronson, the item was approved

Item 2: Request for Approval for Adoption of Proposed Rule 69O-175.008; Not at Fault Accidents

Upon motion by Governor Charlie Crist, there was no second and the item was not approved.

Item 3: Request for Approval for Adoption of Proposed Rule 69O-138.005; Exams by Non Employees

Upon motion by Attorney General Bill McCollum, and seconded by Chief Financial Officer Alex Sink, the item was approved

M E M O R A N D U M

DATE: June 24, 2009
TO: Kevin M. McCarty, Commissioner, Office of Insurance Regulation
THROUGH: Steven H. Parton, General Counsel
FROM: Dennis Threadgill
Bob Prentiss *BP*
SUBJECT: Cabinet Agenda for July 28, 2009
Request for Approval to Publish Amendments to
Rule 69O-138.001; NAIC Financial Condition Examiners Handbook Adopted
Assmt. # 44296

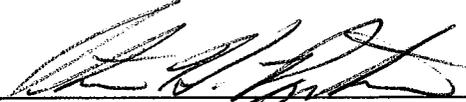
The Office of Insurance Regulation requests that these proposed rule amendments be presented to the Cabinet aides on or before July 22, 2009 and to the Financial Services Commission on July 28, 2009, with a request to approve for publication the proposed rules.

This rule is being amended to adopt the 2009 NAIC Financial Condition Examiners Handbook. The current rule adopted the 2008 version.

Sections 624.308(1) and 624.316(1)(c), F.S., provide rulemaking authority and laws implemented for this rule.

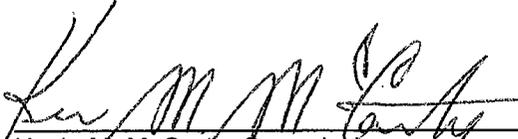
① Laura Parsons is the attorney handling this rule. Attached are: 1) the proposed rule(s), 2) any incorporated materials, such as forms; and 3) copies of the specific statutory authority and law implemented.

Approved for signature:



Steven H. Parton, General Counsel

Approved for submission to Financial Services
Commission:



Kevin M. McCarty, Commissioner
Office of Insurance Regulation

69O-138.001 NAIC Financial Condition Examiners Handbook Adopted.

(1)(a) No change.

(b) The National Association of Insurance Commissioners Financial Condition Examiners Handbook 20092008 is hereby adopted and incorporated by reference.

(2) – (3) No change.

Rulemaking Specific Authority 624.308(1), 624.316(1)(c) FS. Law Implemented 624.316(1)(c) FS. History—New 3-30-92, Amended 4-9-97, 4-4-99, 11-30-99, 2-11-01, 12-25-01, 8-18-02, 7-27-03, Formerly 4-138.001, Amended 1-6-05, 9-15-05, 1-25-07, _____.

624.308 Rules.--

- (1) The department and the commission may each adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring duties upon the department or the commission, respectively.

624.316 Examination of insurers.—

- (1)(c) The office shall examine each insurer according to accounting procedures designed to fulfill the requirements of generally accepted insurance accounting principles and practices and good internal control and in keeping with generally accepted accounting forms, accounts, records, methods, and practices relating to insurers. To facilitate uniformity in examinations, the commission may adopt, by rule, the Market Conduct Examiners Handbook and the Financial Condition Examiners Handbook of the National Association of Insurance Commissioners, 2002, and may adopt subsequent amendments thereto, if the examination methodology remains substantially consistent.

M E M O R A N D U M

DATE: June 24, 2009
TO: Kevin M. McCarty, Commissioner, Office of Insurance Regulation
THROUGH: Steven H. Parton, General Counsel
FROM: Dennis Threadgill *DT*
Bob Prentiss *BP*
SUBJECT: Cabinet Agenda for July 28, 2009
Request for Approval to Publish Amendments to
Rule 69O-137.001; Annual and Quarterly Reporting Requirements
Assmt. # 44295

The Office of Insurance Regulation requests that these proposed rule amendments be presented to the Cabinet aides on or before July 22, 2009 and to the Financial Services Commission on July 28, 2009, with a request to approve for publication the proposed rules.

This rule is being amended to adopt the 2009 NAIC Quarterly Statement Instructions and also adopts the 2009 NAIC accounting practices and procedures manual.

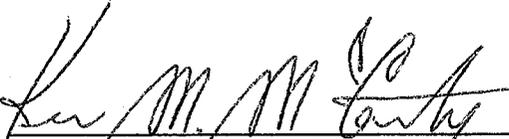
Sections 624.308(1), and 624.424(1), F.S., provide rulemaking authority and laws implemented for this rule.

② Laura Parsons is the attorney handling this rule. Attached are: 1) the proposed rule(s), 2) any incorporated materials, such as forms; and 3) copies of the specific statutory authority and law implemented.

Approved for signature:


Steven H. Parton, General Counsel

Approved for submission to Financial Services
Commission:


Kevin M. McCarty, Commissioner
Office of Insurance Regulation

690-137.001 Annual and Quarterly Reporting Requirements.

(1) through (3) – no change

(4) Manuals Adopted

(a) – no change

(b) Quarterly statements shall be prepared in accordance with the following manuals, which are hereby adopted and incorporated by reference:

1. The NAIC's Quarterly Statement Instructions, Property and Casualty, 2009 2008;
2. The NAIC's Quarterly Statement Instructions, Life, Accident and Health, 2009 2008;
3. The NAIC's Quarterly Statement Instructions, Health, 2009 2008;
4. The NAIC's Quarterly Statement Instructions, Title, 2009 2008; and
5. The NAIC's Accounting Practices and Procedures Manual, as of March 2009 2008.

(c) – no change

Rulemaking Specific Authority: 624.308(1), 624.424(1), F.S. Law implemented: 624.424(1), F.S. History--New 3-31-92, Amended 8-24-93, 4-9-95, 4-9-97, 4-4-99, 11-30-99, 2-11-01, 4-5-01, 12-4-01, 12-25-01, 8-18-02, 7-27-03, Formerly 4-137.001, Amended 1-6-05, 9-15-05, 1-25-07, _____.

624.308 Rules.--

- (1) The department and the commission may each adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring duties upon the department or the commission, respectively.

624.424 Annual statement and other information.--

(1)(a) Each authorized insurer shall file with the office full and true statements of its financial condition, transactions, and affairs. An annual statement covering the preceding calendar year shall be filed on or before March 1, and quarterly statements covering the periods ending on March 31, June 30, and September 30 shall be filed within 45 days after each such date. The office may, for good cause, grant an extension of time for filing of an annual or quarterly statement. The statements shall contain information generally included in insurers' financial statements prepared in accordance with generally accepted insurance accounting principles and practices and in a form generally utilized by insurers for financial statements, sworn to by at least two executive officers of the insurer or, if a reciprocal insurer, by the oath of the attorney in fact or its like officer if a corporation. To facilitate uniformity in financial statements and to facilitate office analysis, the commission may by rule adopt the form for financial statements approved by the National Association of Insurance Commissioners in 2002, and may adopt subsequent amendments thereto if the methodology remains substantially consistent, and may by rule require each insurer to submit to the office or such organization as the office may designate all or part of the information contained in the financial statement in a computer-readable form compatible with the electronic data processing system specified by the office.

(b) Each insurer's annual statement must contain a statement of opinion on loss and loss adjustment expense reserves made by a member of the American Academy of Actuaries or by a qualified loss reserve specialist, under criteria established by rule of the commission. In adopting the rule, the commission must consider any criteria established by the National Association of Insurance Commissioners. The office may require semiannual updates of the annual statement of opinion as to a particular insurer if the office has reasonable cause to believe that such reserves are understated to the extent of materially misstating the financial position of the insurer. Workpapers in support of the statement of opinion must be provided to the office upon request. This paragraph does not apply to life insurance or title insurance.

(c) The commission may by rule require reports or filings required under the insurance code to be submitted by electronic means in a computer-readable form compatible with the electronic data processing equipment specified by the commission.

PLAN OF OPERATION AMENDMENTS DECEMBER 12, 2008 & MAY 7, 2009

EXECUTIVE SUMMARY

Citizens' Legal Services Department is submitting the attached proposed Amendments to the Plan of Operation for adoption by the Board of Governors. If approved by the Board, Citizens' staff will present the revised Plan of Operation to the Financial Services Commission (FSC) for final approval.

BACKGROUND

After every legislative session, Citizens' Legal Services department reviews Citizens' Plan of Operation to identify provisions that require modification to conform with changes in the law. As part of that process, other parts of the Plan are reviewed with Senior Management to be updated in accordance with Citizens' operations or other considerations.

The proposed Amendments contain changes to conform the Plan to 2008 Senate Bill 2860, which was signed by the Governor on May 28, 2008 and 2009 House Bill 1495, which was signed by the Governor on May 28, 2009. Prior to these Amendments taking effect, the Plan is construed to conform to law changes.

HIGHLIGHT OF PROPOSED CHANGES

1. Section 1 is amended to codify the fact that Citizens' headquarters is in Tallahassee, Florida (page 1). There is a similar change in Sub-Section 7(I).
2. Section 4 is amended to conform to SB 2860 by:
 - Deleting various obsolete definitions such as "Additional Citizens Policyholder Assessment", "Immediate Nonhomestead Assessment", "Market Equalization Surcharge" (2006 law change), and "Surcharge" (pages 5-12).
 - Adding a new definition "Policyholder Surcharge" which is the Citizens Policyholder Surcharge (page 10).
 - Amending the definitions of a few terms such as "Total Revenue" to provide conforming changes due to the statutory additions and deletions (page 13).
3. Sections 4(C)-(D) and 5 are amended to clarify which insureds and insurers may be non-assessable based on statutory language found outside of Citizens enabling statute. (pages 5, 13 & 14)
4. Section 6 is amended to:

- Clarify that for the first term beginning August 1, 2011, each appointing officer shall appoint one member of the Board for a 2-year term and one member for a 3-year term. This appointment process will allow a staggering of the Board members' terms so all eight members' terms will not expire at the same time. (page 14)
 - Update the term "Investment Committee" to the "Finance and Investment Committee," the name currently used. A similar change is in Sub-Section 7(E). (page 15)
 - Revise the voting rule to provide that approval requires a majority of members "present and voting," so that abstentions will be neutral rather than votes against. (page 16)
5. Sub-Section 7(A), which relates to the authority of the Board, is amended to:
- Eliminate a conflict with Citizens' Purchasing Policy, such that the rules for when vendor conflict of interest disclosure forms are required is governed by the Purchasing Policy and not the Plan. Currently, the Plan provides that purchases of \$25,000 or more require an executed disclosure form from the vendor, while the Plan requires a disclosure form for all purchases. (page 17, paragraph (A)(12))
 - Conform to a year 2006 statutory change requiring Board approval for any contract for goods or services valued at \$100,000 or more in accordance with the Purchasing Policy and Procedure; but also recognizes Citizens' practice of having the Executive Director and its designees negotiate contract terms. (page 18, paragraph (A)(13))
 - Consolidate into a single paragraph (14) all provisions related to debt financing agreements. (page 18)
6. Sub-Section 7(D) establishes a quorum and additional rules for Board committees. (page 20)
7. Sub-Section 7(I), which relates to the authority of the Executive Director (President), is amended to:
- Acknowledge that the Executive Director's authority in Sub-Section 7(I) is subject to any conflicting authority of the Board under Sub-Section 7(A). (page 20)
 - Recognize Citizens' headquarters in Tallahassee. (page 21, paragraph (I)(1)) There is a similar change in Section 1.
 - Clarify that the Board's review of and concurrence with the Executive Director's hiring of staff is accomplished through approval of the budget or other process. (page 21)
 - Clarifies that the Executive Director has the authority to negotiate the terms of and execute contracts, in accordance with Citizens' practice. (page 21)
 - Conforms to 2006 and 2007 statutory changes related to the reporting of fraud. (page 22)
8. Section 9 is amended to reflect the new statutory rate filing requirements. (page 26)

9. Section 13 is amended to conform to SB 2860 terminology changes related to assessments and surcharges. (page 32)
10. Section 16 also is amended to:
 - Eliminate a requirement that is at odds with the statute, in that it requires the Board to determine that an assessment is in Citizens' best interest, when the statute does not. (page 36, paragraph (D)(3))
 - Eliminate an unnecessary difference in how negative Operating Results are treated in the HRA compared with how such results are treated in the PLA/CLA for purposes of determining a deficit. This change is recommended by Citizens' Controller (page 42, subsection (L))
11. Sections 16 & 17 are also amended in a manner that interpret one of SB 2860's new provisions -- which allows Citizens to use excess collected assessments to pay claims or reduce any past, present or future deficits or debt -- to mean that Citizens can use such excess assessments to reduce past, present or future claims. (page 44, subsection 16(P); and page 48, subsection 17(J))
12. Section 18 is amended to delete obsolete language referring to the Florida Windstorm Underwriting Association and the Florida Residential Property and Casualty Joint Underwriting Association and to conform to a prior year statutory change. (page 49)
13. Section 19 contains a conforming verbiage change. (page 51)
14. Section 20 is amended to conform to SB 2860 changes, deleting obsolete language mandating the sale of Citizens bonds to assessable insurers in the event any remain unsold. (page 52)
15. Section 29 is amended to conform to a year 2006 statutory change regarding approval of the Plan of Operation by the Financial Services Commission. (page 66)

RECOMMENDATION

The General Counsel recommends that the Board of Governors adopt the proposed amendments to the Plan of Operation.

PROPOSED RESOLUTION

The following resolution is proposed:

RESOLVED, that the proposed amendments to the Plan of Operation, submitted to the Board are hereby adopted, subject to approval by the Financial Services Commission. The General Counsel is authorized to make corrections to any Scrivener's errors.

**CITIZENS PROPERTY INSURANCE CORPORATION
PLAN OF OPERATION**

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This Plan of Operation (the "Plan") is effective 8/01/2002 (the "Effective Date"). Certain amendments subsequent to the Effective Date of the Plan are denoted by specific references to the effective date of such amendments.

CITIZENS PROPERTY INSURANCE CORPORATION
PLAN OF OPERATION

SECTION 1

NAME

The organization shall be known as the Citizens Property Insurance Corporation, hereafter referred to as the "Corporation", with its headquarters in Tallahassee, Florida, or such other place within the State of Florida as the Board of Governors may determine

SECTION 2

PURPOSE

The Corporation has been established in accordance with the provisions of §627.351(6), Florida Statutes, as amended (the "Statute") to provide certain personal and commercial coverages to qualified risks under circumstances specified in the Statute. The Corporation is a governmental entity that is an integral part of the State, and is not a private insurance company.

This Plan of Operation (the "Plan") is adopted to set forth and establish the structure, function, procedures and powers of the Corporation.

SECTION 3

POLICYHOLDER DECLARATION OF RIGHTS

There is created a Declaration of Rights for Citizens Property Insurance Corporation so that policyholders and applicants receive quality customer service and are treated with the utmost respect, courtesy, and professionalism. Policyholders and applicants of Citizens should expect:

- (A) The Right to Courteous, Prompt, and Professional Customer Service**

Citizens will implement this right by the following:

- (1) Providing quality customer service to policyholders, applicants and agents, and will communicate and emphasize this expectation to our employees, agents, and vendors.
- (2) Providing telephonic, electronic and written means for consumers to contact Citizens directly with inquiries, questions, or complaints.
- (3) Answering telephone calls, emails and letters with knowledgeable and professional responses in a timely manner.
- (4) Developing, implementing and maintaining specific methods for responding to and resolving consumer complaints, including a method for escalation of unresolved complaints to supervisors and other decision makers.
- (5) Maintaining a unit responsible for receiving and responding to consumer complaints, which unit or division is the sole responsibility of a Senior Manager of Citizens.
- (6) Tracking and monitoring consumer complaints and issues, and report any trends or problems to the Senior Manager.
- (7) Continuing to provide customer service education for employees.
- (8) Developing and implementing customer service measures with respect to timeliness, responsiveness, accuracy of information, and customer courtesy, and we will monitor, evaluate and enforce employee performance of such service.
- (9) Refunding return premiums due to policyholders promptly.

(B) The Right to Fair, Prompt and Professional Claims Service

Citizens will implement this right by the following:

- (1) Providing quality claims service to our policyholders and will communicate and emphasize this expectation to adjusters and employees.
- (2) Providing consumers with directions on how to report claims in case of a loss.
- (3) Ensuring our insurance adjusters are licensed under Florida law.
- (4) Providing fast, fair, honest and accurate claims service.
- (5) Providing a method for a consumer to contact us regarding issues with their claim.
- (6) Monitoring the service levels of our adjusters and claims professionals.
- (7) Ensuring there are sufficient personnel to accomplish processing customer claims and achieve other corporate responsibilities.

**(C) The Right to Prompt, Professional Service from your
Citizens' Insurance Agent**

Citizens will implement this right by the following:

- (1) Appointing only agents that are licensed under Florida law.
- (2) Educating our agents so they can provide knowledgeable and professional service about our products.
- (3) Providing a method for consumers to report problems with an agent.
- (4) Investigating and responding to complaints about an agent in a timely manner.
- (5) Allowing consumers the right to choose among Citizens' appointed insurance agents.

- (6) Developing and monitoring customer service standards for agents who provide service to policyholders and applicants.
- (7) Auditing our agents' performance, and if violations are discovered, disciplining such agents as necessary to ensure that agents perform according to Citizens' underwriting guidelines and customer service expectations.
- (8) Instructing our agents to provide a customized quote if requested by a consumer.
- (9) Instructing our agents to explain the coverage offered by our policies.

(D) The Right to Know about Citizens, our Products, and our Services

Citizens will implement this right by the following:

- (1) Working cooperatively with the Department's Division of Consumer Services, the Office of Insurance Regulation, and the Insurance Consumer Advocate to communicate and educate consumers on Citizens' procedures and major issues of concern, such as upcoming rate increases or changes in underwriting rules.
- (2) Developing education and communication tools to inform policyholders and applicants about our products and services and methods to lower their premiums, including information about windstorm mitigation credits and deductibles.
- (3) Including a checklist of coverage with our policies.
- (4) Advising policyholders of renewal premiums in advance.
- (5) Providing policyholders with advance notice in case of cancellation or nonrenewal.

SECTION 4

DEFINITIONS

As used in this Plan:

- (A) "Account" or "Accounts" shall mean either the Personal Lines Account, the Commercial Lines Account, or the High-Risk Account or collectively all of such Accounts, as the context may require, established pursuant to Section 18.
- (B) "Agent" means a licensed agent appointed by the Corporation in accordance with the requirements set forth in Section 7(I) (15).
- (C) "Assessable Insureds" means insureds who procure one or more of the Subject Lines of Business in the State from an insurer writing such coverage pursuant to the Surplus Lines Law and are subject to Assessment by the Corporation, as otherwise provided in Section 5. An individual insured may sometimes herein be referred to as an "Assessable Insured."
- (D) "Assessable Insurers" means insurers holding a Florida certificate of authority permitting such insurer to write one or more of the Subject Lines of Business in the State, as otherwise provided in Section 5. An individual insurer may sometimes herein be referred to as an "Assessable Insurer."
- (E) "Assessments" means Interim Assessments, Regular Assessments and Emergency Assessments authorized hereunder, or any one or more of them as the context may require.
- (F) "Board" means the Board of Governors of the Corporation as determined and constituted under the Statute.
- (G) "Bond" or "Bonds" means bonds, notes, certificates, and any other instrument evidencing financial indebtedness or other borrowing, any one of such instruments, or an issue of such instruments, as appropriate in the context authorized to be issued pursuant to the Statute and the Plan.

- (H) "Citizens Policyholder Surcharge" means the surcharge levied or to be levied upon Corporation policyholders for plan year deficits incurred in calendar year 2008 or any subsequent calendar year, pursuant to §627.351(6)(c)11., Florida Statutes, and Section 16(F).
- (I) "Commercial Lines Account" means all revenues, assets, liabilities, losses and expenses of the Corporation attributable to the writing of the commercial lines residential and nonresidential insurance policies specified in subparagraph 3 of Section 10 A. for risks not located in the Eligible Areas and for such policies that exclude the peril of wind on risks located in Eligible Areas.
- (J) "Corporation" means the Citizens Property Insurance Corporation established pursuant to the Statute.
- (K) "Coverage" means insurance as required pursuant to the Statute to be offered by the Corporation.
- (L) "Debt Service Expense" means all interest expense incurred or projected to be incurred in an Account in the current Plan Year by the Corporation on existing or anticipated borrowings or other indebtedness, and all fees, commissions, required reserves, expenses and costs incurred or projected to be incurred in respect of such borrowings or other indebtedness for the current Plan Year.
- (M) "Department" means the Department of Financial Services. Prior to January 7, 2003, Department referred to the Florida Department of Insurance.
- (N) "Direct Written Premium" for determining Participation Ratios and Assessments for any Plan Year means gross direct premiums written and reported in Florida on property and casualty insurance for the Subject Lines of Business (including gross direct premiums written by Assessable Insurers, Special Purpose Homeowner Insurance Companies, Limited Apportionment Companies, Minority Owned Insurers, and Surplus Lines Agents) less returned premiums upon canceled policies and dividends paid or credited to policyholders.
- (O) "Earned Premium" for any Plan Year means the total premium earned by the Corporation in an Account for that Plan Year

computed in accordance with the Corporation's rules, rates and rating plans.

- (P) "Eligible Areas" means the geographical areas that, pursuant to applicable laws of the State, were eligible for coverage by the FWUA on January 1, 2002 or as were, or may hereafter be, added by the Statute.
- (Q) "Eligible Risks" means, for purposes of the Quota Share Primary Insurance Program, personal lines residential and commercial lines residential risks that meet the underwriting criteria of the Corporation and are located in Eligible Areas.
- (R) "Emergency Assessments" means all Assessments which the Board is authorized to levy under §627.351(6)(b)3.d., Florida Statutes, to be collected by Assessable Insurers, Special Purpose Homeowner Insurance Companies, Limited Apportionment Companies, Minority Owned Insurers and the Corporation, and collected from Assessable Insureds, upon the issuance or renewal of policies for Subject Lines of Business in accordance with Section 17.
- (S) "FHCF" means the Florida Hurricane Catastrophe Fund.
- (T) "Financial Products" means agreements or arrangements for interest rate exchanges, interest rate swaps, interest rate caps, floors or collars, or other hedge arrangements, forward sales or purchases, put options, call options, currency exchanges, other derivatives or synthetic transactions, or any one or combination of them, or any other product or transaction permitted by the Corporation's investment policy, used by or on behalf of the Corporation as a hedge in connection with any loans made to or Bonds issued by or on behalf of the Corporation or in connection with investment of proceeds of or funds related to such loans or Bonds.
- (U) "FRPCJUA" means the Florida Residential Property and Casualty Joint Underwriting Association.
- (V) "FSLSO" means the Florida Surplus Lines Service Office established and functioning pursuant to the provisions of Chapter 626, Florida Statutes.
- (W) "FWUA" means the Florida Windstorm Underwriting Association.

- (X) "General Expenses" for any Plan Year means operating expenses and any other expenses of an Account not already included or excluded by this Plan in the calculation of Operating Result incurred by the Corporation. Where expenses under a multi-year contract are not finally determined until the contract has expired, the accrual of expense in each year shall be subject to adjustment after expiration or termination of the contract.
- (Y) "High-Risk Account" means all revenues, assets, liabilities, losses and expenses of the Corporation attributable to the writing of personal residential, commercial residential, commercial non-residential and Quota Share Primary Insurance policies specified in Section 10. The removal of any territory from the Eligible Areas for wind-only or Quota Share Primary Insurance policies does not alter the assignment of wind coverage written by the Corporation in such territory to the High-Risk Account.
- ()
- (Z) "Incurred Losses" in an Account for any Plan Year means the sum of (1) losses paid, (2) change in reserves for all known losses, (3) change in reserves for losses incurred but not reported, and (4) paid and reserved loss adjustment expenses and less (5) Reimbursables with respect to such Plan Year.
- (AA) "Interim Assessments" means the assessment or assessments levied pursuant to §627.351(6)(p), Florida Statutes, and the Plan at any time prior to the final determination of the Corporation's Plan Year Deficit for a Plan Year.
- (BB) "Investment Income or Loss" for any Plan Year means for an Account the sum of (1) interest income on investments, (2) dividends declared, paid and received, (3) realized gains or losses, as the case may be, from sales and maturities of investments, and (4) income, gain or loss on Financial Products, and less (5) expenses allocated to such activities set forth in (1) through (4) above.
- (CC) "Investment Policy" means the policy adopted by the Corporation pursuant to Section 21 of the Plan.

- (DD) "Limited Apportionment Company" means, with respect to the High-Risk Account, any Assessable Insurer with a surplus as to policyholders of \$25 million or less writing twenty-five percent (25%) or more of its total countrywide property insurance premiums in the State, which petitions the Office to qualify as a Limited Apportionment Company within the first ninety (90) days of each calendar year and whose petition to qualify has been approved by the Office.
- (EE) "Minority Owned Insurer" means a minority owned property and casualty insurer, as defined in §624.4072(1), Florida Statutes, subject to the limitations, restrictions and requirements set forth in §624.4072 (2), (3) and (4), Florida Statutes.
- (FF) "Office of Insurance Regulation" or "Office" means the State of Florida Office of Insurance Regulation.
- (GG) "Operating Result" of an Account for any Plan Year means the result obtained by applying the total of all General Expenses, Debt Service Expenses (other than Debt Service Expenses associated with the financing of prior Plan Year Deficits), and Incurred Losses of that Account for that Plan Year against the Total Revenue of that Account for that Plan Year all as determined in accordance with generally accepted accounting principles (GAAP) or the provisions of this Plan.
- (HH) "Participation Ratio" for any Plan Year means the proportionate participation of each Assessable Insurer individually and all Assessable Insureds collectively as calculated pursuant to Section 15 of the Plan in any Assessment or Assessments for an Account levied as to that Plan Year.
- (II) "Personal Lines Residential Account" or "Personal Lines Account" means all revenues, assets, liabilities, losses and expenses of the Corporation attributable to the writing of the personal lines insurance policies specified in subparagraphs 1 and 2 of Section 10(A) for risks not located in the Eligible Areas and for such policies that exclude the peril of wind on risks located in Eligible Areas.

- (JJ) "Plan" or "the Plan" means the Plan of Operation for the Corporation.
- (KK) "Plan Year" means the twelve (12) month period beginning 12:01 a.m., January 1, of one year and ending 12:01 a.m., January 1, of the following year.
- (LL) "Plan Year Deficit" in an Account for any Plan Year means the amount by which the negative Operating Result of the Account for that Plan Year exceeds the Surplus as adjusted pursuant to Section 16(L). After determining the amount of a Plan Year Deficit for any Plan Year, all Assessments, and the Citizens Policyholder Surcharge, received by the Corporation as a consequence of such Plan Year Deficit shall be applied to reduce the unrecovered balance of the Plan Year Deficit for that Plan Year.
- (MM) "Policyholder Surcharge" means the Citizens Policyholder Surcharge.
- (NN) "Regular Assessments" means an assessment levied, pursuant to Section 16, on Assessable Insurers, Assessable Insureds and any other insurer authorized to do business for Subject Lines of Business in the State which has not been granted an exemption from Regular Assessments by statute or by the Corporation pursuant to the Plan.
- (OO) "Reimbursables" means the sum of (1) recoveries actually received by the Corporation and allocated to the applicable Account from the FHCF and other reinsurance counterparties and (2) any other amounts owed but not yet received which are accrued by the Corporation from the FHCF and other reinsurance counterparties and allocated to the incurred losses in the applicable account; provided, however, that for purposes of determining whether a Plan Year Deficit exists in connection with the drawing of proceeds of Bonds or other indebtedness under financing documents that condition or otherwise restrict the ability to draw on existence of a Plan Year Deficit, "Reimbursables" shall not include amounts owed but not yet received which are accrued by the Corporation from the FHCF; provided, further, however that upon receipt by or on behalf of the Corporation of any such recoveries from the FHCF, amount thereof equal to the amount of proceeds actually drawn

by the Corporation in anticipation of receipt of such FHCF recoveries shall be immediately reimbursed to the appropriate account or subaccount established under the corresponding financing document or used to repay the amount drawn, as applicable.

(PP) "Reinsurance Surcharge" means the surcharge collected on policies issued by the FWUA in the High-Risk Account pursuant to Order of the Department (#83-Rate-101B) dated August 18, 1983, as modified by Order of the Department dated May 23, 1996 in Case No: 15131-95-C and such similar surcharge that the Office of Insurance Regulation may subsequently approve for the High-Risk Account or any other Account.

(QQ) "Section" means a Section of this Plan.

(RR) "Senior Manager" of the Corporation, for purposes of the Statute and this Plan, means a person who serves as an officer of the Corporation including the President, one or more Senior Vice Presidents, one or more Vice Presidents, the Chief Financial Officer, the General Counsel, and any other person designated and engaged by the Board as an officer.

The President is the senior officer referred to in the Statute as the "Executive Director" and may also be referred to by that title in this Plan and elsewhere. "Senior Management" means the team of Senior Managers designated by the President whose collective responsibility is to act as the Corporation's senior management team.

The person whose sole responsibility is the unit or division responsible for receiving and responding to consumer complaints also is a "Senior Manager."

(SS) "Special Purpose Homeowner Insurance Company" means an insurance company issued a certificate of authority by the Office of Insurance Regulation and operating pursuant to §624.4071, Florida Statutes.

(TT) "State" means the State of Florida.

(UU) "Statute" means §627.351(6), Florida Statutes, as amended.

- (VV) "Subject Lines of Business" means insurance written by Assessable Insurers or procured by Assessable Insureds for all property and casualty lines of business in this state, but not including workers' compensation or medical malpractice. As used in this paragraph, the term "property and casualty lines of business" includes all lines of business identified on Form 2, Exhibit of Premiums and Losses, in the annual statement required of authorized insurers by s. 624.424 and any rule adopted under this section, except for those lines identified as accident and health insurance and except for policies written under the National Flood Insurance program or the Federal Crop Insurance Program. For purposes of this paragraph, the term "workers' compensation" includes both workers' compensation insurance and excess workers' compensation insurance.
- (WW) "Surplus" means surplus for an Account determined in accordance with generally accepted accounting principles or the Plan.
- (XX) "Surplus Lines Agent" means a person licensed under the State's Surplus Lines Law to handle the placement of risks located in this State with eligible surplus lines insurers.
- (YY) "Surplus Lines Law" means Part VIII of Chapter 626, Florida Statutes.
- (ZZ) "Total Revenue" for an Account means Earned Premium other surcharges, Investment Income or Loss, and fees and miscellaneous income, but not including the proceeds of any, Policyholder Surcharges or Assessments levied and collected pursuant to Sections 16 or 17, related to any prior Plan Year Deficit, or the proceeds from any indebtedness incurred to finance or refinance a Plan Year Deficit.
- (AAA) "Treasurer" means the Treasurer of the State of Florida. Effective January 7, 2003, any references in this Plan to the Treasurer shall be deemed to be a reference to the Chief Financial Officer of the State of Florida.
- (BBB) "Voluntary Credits" means adjustments to the calculation of Participation Ratios that may be adopted by the Board and

available to Assessable Insurers voluntarily providing windstorm insurance to risks located in Eligible Areas.

THE ABOVE DEFINITIONS ARE IN ADDITION TO ANY OTHER DEFINED TERMS CONTAINED IN THIS PLAN.

SECTION 5

ASSESSABLE INSURERS AND ASSESSABLE INSURED

- (A) Every insurer that meets the criteria as set forth in §627.351(6)(b)1., Florida Statutes, shall automatically be an Assessable Insurer. A Special Purpose Homeowner Insurance Company shall be an Assessable Insurer for the limited purposes set forth in § 624.4071(2)(d)2., Florida Statutes. A Minority Owned Insurer shall be an Assessable Insurer for the limited purposes set forth in §624.4072(1)(b), Florida Statutes. An insurer is not an Assessable Insurer if a provision of law specifically excludes the insurer from the Corporation's Assessments.
- (B) An insurer writing one or more of the Subject Lines of Business in the State pursuant to the Surplus Lines Law is not an Assessable Insurer, but the insureds who procure one or more Subject Lines of Business in the State pursuant to the Surplus Lines Law through Surplus Lines Agents are subject to Assessment by the Corporation and shall collectively and individually be referred to as "Assessable Insureds". An insured is not an Assessable Insured if a provision of law specifically excludes the insured from the Corporation's Assessments.
- (C) An Assessable Insurer ceasing to meet the criteria as specified in §627.351(6)(b)1., or §624.4071, Florida Statutes, shall automatically cease to be an Assessable Insurer effective one (1) year after the end of the first calendar year during which the Assessable Insurer no longer holds a Certificate of Authority to transact insurance for Subject Lines of Business in the State. Such Assessable Insurer shall no longer be bound by this Plan thereafter; provided, however, such Assessable Insurer shall remain liable for any past, present or future Assessments by the Corporation with respect to the Plan Years during which the Assessable Insurer reports

Direct Written Premium for the Subject Lines of Business, and therefore develops a Participation Ratio pursuant to Section 15.

- (D) If an Assessable Insurer fails to pay an Interim or Regular Assessment after written notice from the Corporation and reasonable collection efforts by the Corporation, the unpaid Assessment shall be paid by the remaining Assessable Insurers, each contributing its proportionate share of the unpaid Assessment in accordance with the applicable provisions of the Plan.
- (E) Each Assessable Insurer shall have a claim in any liquidation proceeding or action against the insolvent or defaulting Assessable Insurer and shall have full authority to exercise such rights in any action or proceeding, for its pro rata share of contributions resulting from (D) above.

SECTION 6

BOARD OF GOVERNORS

- (A) The Corporation shall be governed by the Board which shall administer this Plan.
- (B) Effective August 1, 2005, the Governor, Chief Financial Officer, Speaker of the House, and the President of the Senate shall each appoint two (2) individuals as members of the Board, which Board shall consist of the eight (8) individuals so appointed. At least one of the two members appointed by each appointing officer must have demonstrated expertise in insurance. The members of the Board shall be residents of the State of Florida and be from different geographical areas of the State.
- (C) The term of office for an individual Board member shall be three years. However, for the first term beginning August 1, 2011, each appointing officer shall appoint one member of the Board for a 2-year term and one member for a 3-year term. Terms of the initial Board members shall commence on the date of their appointment. Members of the Board may be appointed for subsequent terms. Each Board member shall serve at the pleasure of his or her appointing officer and all members of

- the Board are subject to removal at will by the officers who appointed them. Any vacancy created by the resignation, removal or inability to serve of a Board member shall be filled for the unexpired term of such Board member by the appointing officer in accordance with (B) above.
- (D) The Chief Financial Officer shall designate an appointed member of the Board to serve as Chair. The Board shall, at least annually, elect one of its members to serve as Vice Chair of the Board.
 - (E) The Chair shall appoint an executive committee (the "Executive Committee") of three (3) Board members consisting of the Chair, the Vice Chair and one other Board member.
 - (F) The Chair shall appoint a finance and investment committee (the "Finance and Investment Committee") and an audit committee (the "Audit Committee") of at least three (3) Board members each.
 - (G) The Chair shall preside at and call all meetings of the Board, upon reasonable notice, which may be waived. However, a meeting of the Board shall also be noticed and held within fourteen (14) days after receipt of written requests delivered to the Chair by any three (3) members of the Board.
 - (H) The Vice Chair shall serve as Chair when the Chair is unavailable or unable to serve as Chair.
 - (I) At any meeting of the Board, each Board member shall have one (1) vote.
 - (J) Five (5) members of the Board shall constitute a quorum for the transaction of business, and acts of a majority of the Board members present and voting at a meeting at which a quorum is present shall be the acts of the Board.
 - (K) At any Board meeting voting by proxy shall not be permitted.
 - (L) Members of the Board or any Committee members shall receive reimbursement from the Corporation for their actual and necessary expenses incurred in attending Board meetings and in performing Corporation business in accordance with the Corporation's adopted Travel and Reimbursement Policy.

- (M) The Board may conduct Board meetings by telephonic conference call so long as said conference call permits the general public to be included as parties to the conference call and to hear all Board members in attendance and other speakers at the meeting. A Board member may participate telephonically in any Board meeting.

SECTION 7

DUTIES AND POWERS OF THE BOARD, CHAIR AND EXECUTIVE DIRECTOR

- (A) The Board shall have the duty and power on behalf of the Corporation to:
- (1) Undertake all actions as authorized, required or otherwise permitted by the Statute and this Plan.
 - (2) Engage in any and all corporate actions or undertakings permitted for corporations in the State of Florida and that are not prohibited by, or contrary to, the provisions of the Statute.
 - (3) Pursuant to the provisions of the Statute and this Plan, make and levy Assessments and Policyholder Surcharges.
 - (4) Pursuant to §627.351(6)(e), Florida Statutes, this Plan and the Corporation's policies and procedures, contract with one or more individuals or entities able and willing to provide policy service or claim service on behalf of the Corporation. Alternatively, the Corporation is authorized to perform any or all such services itself or through duly constituted subsidiaries or affiliates.
 - (5) Review and approve audited financial statements of the Corporation.
 - (6) Provide for the filing of rates, forms and rules concerning the classification of risks with the Office, giving recognition to the requirements expressed in the Statute and other applicable statutory provisions.

- (7) Adopt policies, procedures and standards of conduct designed to prevent conflict of interest for members of the Board, the Executive Director, Senior Managers, and employees of the Corporation consistent with §627.351(6)(d), Florida Statutes. Copies of the policies, procedures, and standards of conduct, and any amendments thereto shall be provided to the Office of Insurance Regulation prior to adoption. Copies of the policies, procedures, and standards of conduct, and any amendments thereto shall be provided to the Office of Insurance Regulation prior to adoption.
- (8) Approve the budget of the Corporation.
- (9) Retain an independent auditing firm for the Corporation.
- (10) Implement such powers and functions as may be specifically reserved, or delegated, to the Corporation under this Plan or the Statute for the operation and administration of the Corporation.
- (11) Approve an Underwriting Manual, and all amendments thereto, setting forth criteria as to the insurability or uninsurability of risks.
- (12) Adopt procurement policies and procedures that comply with §627.351(6)(e), Florida Statutes. ~~[deleted language covered in new paragraphs (13) and (14)]~~ ~~[remainder of language moved to new paragraph (14)]~~. To the extent provided in the procurement policies and procedures of the Corporation, all contracts shall be accompanied by a disclosure form requiring the vendor to disclose any relationships, financial or otherwise, with any employee or Board member of the Corporation, and placing the vendor on notice of the conflict of interest policy applicable to the employees of the Corporation, including the limitation on gifts.
- (13) Approve contracts for goods and services valued at or over \$100,000 in accordance with the Purchasing Policy and Procedures; and for an approved contract, the Executive Director or its designee(s) shall have the authority to negotiate the terms and execute such

contracts [remainder of language consolidated unchanged into new paragraph (14)] .

- (14) [this is a consolidated paragraph on financing agreements] [following language moved here from paragraph (12)] Approval all loan, credit, trust indenture, Financial Products or other financing agreements and related documentation as are necessary in connection with indebtedness to be incurred by or on behalf of the Corporation; [remainder of this sentence unchanged, but moved here from old paragraph 13)] provided however, that the selection, review or approval of all contracts for Financial Products or financing agreements may be delegated by the Board, within the parameters established by the Board, only to the Executive Director, the Executive Committee or the Chairman. Any such financing agreements, and supporting documentation thereto, shall be executed and delivered on behalf of the Corporation by the Chair, the Vice Chair or the Executive Director or by any other officer of the Corporation authorized by resolution of the Board. (15) Annually, on or before February 1, provide a report to the President of the Senate and the Speaker of the House of Representatives setting forth the reduction or increase in the Corporation's 100-year probable maximum loss attributable to the Corporation's wind-only coverages and the Quota Share Primary Insurance Program as compared to the 100-year probable maximum loss of the FWUA as calculated on February 2001 based on November 26, 2000 exposure of the FWUA and, as a result of such filings, undertake any appropriate actions as required by the Statute.
- (16) Develop and establish (i) programs for the removal of policies from the Corporation; and (ii) the criteria, guidelines, and procedures for computing and determining Voluntary Credits, Board adopted take-out credits and other statutory credits as exemptions from Regular Assessments for Assessable Insurers qualifying pursuant to the Statute or this Plan for such credits or exemptions.
- (17) Create and maintain a Market Accountability Advisory Committee in accordance with the provision of §627.351(6)(c)4.b, Florida Statutes.

- (18) Pursuant to §627.351(6)(h), Florida Statutes, appoint and supervise the Internal Auditor. The Internal Auditor shall not be subject to supervision by any employee of the Corporation.
- (B) Except as otherwise provided herein or in the Statute, the Corporation shall have all powers reserved for or available to corporations and authorized insurers in the State.
- (C) The Board shall use its best efforts to procure catastrophe reinsurance at reasonable rates to cover its projected 100-year probable maximum loss, as determined by the Board, from reinsurers determined to be qualified by the Board.
- (D) The Chair shall establish all committees and subcommittees and appoint the members of such committees and subcommittees, including a chair. A majority of the committee members present will constitute a quorum. A quorum is not required when the committee or subcommittee is acting in an advisory capacity.
- (E) With the exception of the Executive, Audit and Finance and Investment Committees, the Chair may appoint non-Board members to committees, which non-Board appointees shall serve at the pleasure of the Chair.
- (F) In addition to the other powers and functions of the Chair as herein provided, the Chair shall supervise and review the performance of the Executive Director and establish annually the compensation of the Executive Director.
- (G) The Executive Director and Senior Management of the Corporation shall be engaged for the Corporation by the Board, and such individuals shall serve at the pleasure of the Board and may be removed by the Board at any time. Any Executive Director appointed on or after July 1, 2006, is subject to confirmation by the Senate. The Executive Director and Senior Management of the Corporation shall be subject to the background investigation provisions of §627.351(6)(d)1., Florida Statutes. The Executive Director and Senior Management of the Corporation shall file the financial disclosure form substantially in the form required pursuant to §627.351(6)(d)3., Florida Statutes.

- (H) The Executive Director shall be responsible for the day to day operation of the Corporation and for carrying out the purpose and objectives of the Corporation consistent with the directions and delegations of the Board and the provisions of this Plan and the Statute.
- (I) Subject to Sub-Section (A), The Executive Director shall directly or by delegation to the Corporation's staff:
- (1) Establish a headquarters in Tallahassee, Florida, and take such measures as are necessary to establish and assure the efficient operation of such facilities.
 - (2) Consistent with the Statute and this Plan, determine and recommend to the Board such Assessments as may be necessary to carry out the duties delegated to the Corporation by the Statute, other applicable laws and the Plan.
 - (3) Open and maintain Corporation bank account(s).
 - (4) Hire the staff of the Corporation, subject to the review and concurrence by the Board through approval of the budget or other process; and retain independent contractors and other vendors, as necessary, to carry out the business of the Corporation as set forth in the Statute and this Plan, subject to any directives, guidelines or procedures as may be adopted by the Board.
 - (5) Negotiate the terms of and execute contracts.
 - (6) Consistent with the Statute and this Plan, locate and employ or retain individuals or entities to provide administrative or professional services to effectuate the Plan and provide services for the operation of the Corporation's business, subject to any directions, guidelines or procedures as may be adopted by the Executive Committee.
 - (7) Promulgate and administer policies and procedures for the rendering of services to the Corporation by staff, providers, vendors and Agents of the Corporation, including policies for employees regarding conflicts of interest, dual employment, and post-employment

restrictions, and report the status of operations of such individuals or entities to the Board on a regular basis. Any breach of conflict of interest, dual employment, post-employment or other ethics policies by employees or members of the Board shall be reported by the Executive Director to the Chair of the Board immediately upon discovery. If such breach constitutes potential criminal or fraudulent activity, the full circumstances shall also be reported in accordance with the Statute and other applicable law.

- (8) Enter into contracts for the leasing of office space, subject to the approval of the Executive Committee, and for the purchase and/or lease of furnishings and equipment for the operation of the Corporation and its facilities.
- (9) Incur on behalf of the Corporation and approve office expenses to conduct the Corporation's business, including, but not being limited to, expenses for salaries, insurance, rent, office equipment, postage, facsimile transmittals, maintenance contracts for office equipment, stationery and any other similar expenses necessary to operate the office and facilities of the Corporation.
- (10) Approve and prepare the payroll.
- (11) Arrange for proper and timely notice of all meetings of the Board, the Executive Committee and all other Corporation committees.
- (12) Timely prepare the agenda with the approval of the Chair for each Board meeting and provide a copy of the same to each Board member as soon as practicable prior to each meeting. Board members desiring to place an item on the agenda shall do so through the Executive Director subject to the approval of the Chair.
- (13) Approve all travel, lodging, and other travel related expenses pursuant to appropriate guidelines and forms for presenting the same for reimbursement.
- (14) Prepare budgets for the operation of the Corporation to be approved by the Board.

- (15) Maintain the books and records of the Corporation and arrange for the auditing and review of the Corporation's operations and investments, and preparation of all necessary or required financial statements. Such audits and audited financial statements shall be submitted to the Board for review as expeditiously as possible.
- (16) Appoint as the Corporation's licensed agents only Agents who are in good standing with the Department and who hold an appointment as defined in §626.104, Florida Statutes, with an insurer, which insurer at the time of the Agent's appointment by the Corporation is authorized to write and is actually writing personal lines residential property coverage, commercial residential property coverage or commercial non-residential property coverage in the State.
- (17) Prepare and deliver to the Office quarterly statements of financial condition, an annual statement of financial condition, and audited financial statements in the manner prescribed by law. In addition, the corporation shall file monthly reports on the type, premium, exposure and distribution by county of in force policies and such other reports as the Office may require to carry out its oversight of the Corporation. The Quarterly report shall include a summary of operating results and significant events for the quarter and year-to-date, and such other information required by the Office. Copies of all reports shall be furnished in electronic format and delivered by e-mail.
- (18) Undertake such other functions as may be delegated by the Board or Chair.

SECTION 8

ELIGIBILITY

In order for a risk to be eligible for coverage in the Corporation, it must meet the requirements set forth in this Section.

- (A) With respect to personal lines residential risk, if a new applicant to the Corporation for coverage is offered coverage from an authorized insurer at the insurer's approved rate under either a standard policy including wind coverage or, if consistent with the insurer's underwriting rules as filed with the Office, a basic policy including wind coverage, the applicant is not eligible for a policy issued by the Corporation unless the premium for coverage from the authorized insurer is more than 15 percent greater than the premium for comparable coverage from the Corporation. However, if the risk is not able to obtain any such offer, the risk is eligible for either a standard policy including wind coverage or a basic policy including wind coverage issued by the Corporation, however, if the risk could not be insured under a standard policy including wind coverage regardless of market conditions, the risk shall be eligible for a basic policy including wind coverage unless rejected pursuant to paragraph (C). However, with regard to a policyholder of the Corporation, or a policyholder removed from the Corporation through an assumption agreement until the end of the assumption period, the policyholder remains eligible for coverage regardless of any offer of coverage from an authorized insurer or surplus lines insurer. The Corporation shall determine the type of policy to be provided on the basis of objective standards specified in its Underwriting Manual and based on generally accepted underwriting practices.
- (B) With respect to commercial lines residential risks, if a new applicant to the Corporation for coverage is able to obtain an offer to insure the risk under a policy from an authorized insurer at its approved rate, the risk is not eligible for any policy issued by the Corporation, unless the premium for coverage from the authorized insurer is more than 15 percent greater than the premium for comparable coverage from the Corporation. If the risk is not able to obtain any such offer, the risk is eligible for a policy by the Corporation. However, with regard to a policyholder of the Corporation, or a policyholder removed from the Corporation through an assumption agreement until the end of the assumption period, the policyholder remains eligible for coverage from the Corporation regardless of any offer of coverage from an authorized insurer or surplus lines insurer.

- (C) For purposes of determining comparable coverage under paragraphs (A) and (B), the comparison shall be based on those forms and coverages that are reasonably comparable. The Corporation may rely on a determination of comparable coverage and premium made by the producing agent who submits the application to the Corporation, made in the agent's capacity as the Corporation's agent. A comparison may be made solely of the premium with respect to the main building or structure only on the following basis: the same coverage A or other building limits; the same percentage hurricane deductible that applies on an annual basis or that applies to each hurricane for commercial residential property; the same percentage of ordinance and law coverage, if the same limit is offered by both the Corporation and the authorized insurer; the same mitigation credits, to the extent the same types of credits are offered both by the Corporation and the authorized insurer; the same method for loss payment, such as replacement cost or actual cash value, if the same method is offered both by the Corporation and the authorized insurer in accordance with underwriting rules; and any other form or coverage that is reasonably comparable as determined by the board. If an application is submitted to the Corporation for wind-only coverage in the high-risk account, the premium for the Corporation's wind-only policy plus the premium for the ex-wind policy that is offered by an authorized insurer to the applicant shall be compared to the premium for multiperil coverage offered by an authorized insurer, subject to the standards for comparison specified in this subparagraph. If the Corporation or the applicant requests from the authorized insurer a breakdown of the premium of the offer by types of coverage so that a comparison may be made by the Corporation or its agent and the authorized insurer refuses or is unable to provide such information, the Corporation may treat the offer as not being an offer of coverage from an authorized insurer at the insurer's approved rate.
- (D) A risk shall be deemed ineligible for Coverage in the Corporation if determined to be uninsurable by the Corporation pursuant to the Corporation's Underwriting Manual or Section 12.
- (E) The Board may establish, subject to approval by the Office, different eligibility requirements and operational procedures

for any line or type of Coverage for any specified county or area if the Board determines at a duly noticed public meeting that such changes to the eligibility requirements and operational procedures are justified due to the voluntary market being sufficiently stable and competitive in such area for such line or type of Coverage and that consumers who, in good faith, are unable to obtain insurance through the voluntary market through ordinary methods would continue to have access to Coverage from the Corporation. When Coverage is sought in connection with a real property transfer, such requirements and procedures shall not provide for an effective date of Coverage later than the date of the closing of the transfer as established by the transferor, the transferee, and, if applicable, the lender.

- (F) As of the Effective Date a new applicant for property insurance, who would otherwise have been eligible for coverage in the FWUA, is eligible for coverage from the Corporation as provided in this Plan.
- (G) Commercial property may be required to meet specified hurricane mitigation construction features as a condition of eligibility.

SECTION 9

RATES, RATE FILINGS AND RATING PLANS

- (A) Rates for coverage provided by the Corporation shall be actuarially sound and subject to the requirements of §627.062, Florida Statutes, except as otherwise provided by §627.351(6)(m), Florida Statutes. Beginning on July 15, 2009, and anytime during each year thereafter, the Corporation shall, subject to other applicable provisions of Florida law, make its recommended actuarially sound rate filings with the Office at least annually. The Corporation shall provide any additional information regarding the rates which the Office requires.
- (B) No portion of any rate or rating plan which has been determined by Order of the Office or by the Legislature of the State to constitute a surcharge or assessment, including

without limitation Policyholder Surcharges and Assessments, for the purpose of providing or obtaining financing for catastrophic reinsurance coverage for the Corporation shall be included in any rate filing of the Corporation as premium of the Corporation subject to fees or commissions of the Corporation's Agents or providers.

- (C) For as long as the three Accounts shall be maintained separately, the Corporation shall collect the Reinsurance Surcharge solely for the benefit of the Account to which such Reinsurance Surcharge applies.
- (D) The Board may provide, subject to the approval of the Office, that a rate filing, or any portion thereof, is not subject to the payment of commissions, fees, or other charges of the Corporation payable to Agents or other persons or entities who are compensated by the Corporation on the basis of a percentage of premium.
- (E) Any rating plan may establish such premium payment plans as are determined by the Corporation to be appropriate. The Corporation must provide, by July 1, 2007, a premium payment plan option to its policyholders which allows for quarterly and semiannual payment of premiums.
- (F) The Corporation shall allocate collected premium first to payment of Policyholder Surcharges and Assessments and then to the remainder of the premium, provided that upon cancellation of a policy, Policyholder Surcharges and Assessments shall be returned on a pro-rata or short-rata basis as provided in Section 13.
- (G) The rules for the determination and classification of risks and establishment of rates are as set forth in this Plan or promulgated pursuant to the provisions of this Plan.

SECTION 10

POLICY FORMS AND QUOTA SHARE PRIMARY INSURANCE AGREEMENTS

- (A) The Corporation shall adopt the following policy forms:

- (1) Standard personal lines property policy forms that are comprehensive multi-peril policies providing full coverage of a residential property equivalent to the coverage provided in the private insurance market under an HO-3, HO-4 or HO-6 policy.
 - (2) Basic personal lines property policy forms that are policies similar to an HO-8 policy or a dwelling fire policy that provide Coverage meeting the requirements of the secondary mortgage market, but which Coverage is more limited than the Coverage under a standard policy.
 - (3) Commercial lines residential and nonresidential property policy forms that are generally similar to policies providing coverage for basic perils of full coverage obtainable for commercial residential structures and commercial nonresidential structures in the admitted voluntary market.
 - (4) Personal lines and Commercial lines residential property policy forms that cover the peril of wind-only. Such forms shall be applicable only to personal residential properties and commercial residential properties located in Eligible Areas.
 - (5) Commercial lines non-residential property insurance forms that cover the peril of wind-only. Such forms shall be applicable only to non-residential properties located in Eligible Areas.
- (B) The Corporation may adopt variations of the policy forms listed in Sub-Section (A) that contain more restrictive coverage.
- (C) The Corporation shall adopt a program for quota share primary insurance pursuant to §627.351(6)(c)2. and in that regard:
- (1) The Corporation shall adopt quota share primary insurance policy forms ("Quota Share Primary Insurance") issued pursuant to the Quota Share Primary Insurance Agreements. Such forms shall clearly and conspicuously provide that:
 - (i) the Corporation and the authorized insurer shall each be solely responsible for a specified percentage of hurricane coverage of an Eligible Risk as set forth in a

Quota Share Primary Insurance Agreement executed between the Corporation and an authorized insurer and the insurance contract; (ii) the responsibility of the Corporation or authorized insurer to pay its specified percentage of hurricane losses of an Eligible Risk, as set forth in the Quota Share Primary Insurance Agreement, which responsibility shall not be altered by the inability of the other party to the Agreement to pay its specified percentage of hurricane losses; (iii) the specific obligations of the Corporation and authorized insurer under the arrangement; (iv) the percentages of Quota Share Primary Insurance provided by the Corporation and authorized insurer; (v) that neither the authorized insurer nor the Corporation may be held responsible beyond its specified percentage of coverage of hurricane losses as set forth in the policy; and (vi) such other provisions that are customary, or otherwise necessary, to effectuate and administer such Quota Share Primary Insurance coverage of an Eligible Risk.

- (2) The Corporation may enter into Quota Share Primary Insurance agreements (the "Quota Share Primary Insurance Agreement") with authorized insurers at Corporation quota share coverage levels of 90 percent and 50 percent for Eligible Risks. If the Board determines that additional quota share coverage levels are necessary to maximize participation in Quota Share Primary Insurance Agreements by authorized insurers, the Corporation may establish additional quota share coverage levels; however, the Corporation's quota share coverage level shall not exceed 90 percent. Quota Share Primary Insurance Agreements of the Corporation shall be subject to the following provisions:
 - (a) Any Quota Share Primary Insurance Agreement entered into between an authorized insurer and the Corporation must provide for a uniform and specified percentage of coverage of hurricane losses, by county or territory as set forth by the Board, for all Eligible Risks of the authorized insurer covered under the Quota Share Primary Insurance Agreement.
 - (b) Any Quota Share Primary Insurance Agreement entered into between an authorized insurer and the Corporation is

subject to review and approval by the Office. However, such Agreement shall be authorized only as to insurance contracts entered into between an authorized insurer and an insured who is already insured by the Corporation for wind coverage.

- (c) For all Eligible Risks covered under Quota Share Primary Insurance Agreements, the exposure and coverage levels for both the Corporation and authorized insurers shall be reported by the Corporation to the FHCF.
- (d) For all policies of Eligible Risks covered under Quota Share Primary Insurance Agreements, the Corporation and the authorized insurer shall maintain complete and accurate records for the purpose of exposure and loss reimbursement audits as required by FHCF rules.
- (e) The Corporation and the authorized insurer shall each maintain duplicate copies of policy declaration pages and supporting claims documents.
- (f) The terms and provisions of the Quota Share Primary Insurance Agreement between the Corporation and an authorized insurer must set forth the: (i) specific terms under which coverage is provided; (ii) provisions as to the sale and servicing of policies issued under the Agreement by the Agent of the authorized insurer producing the business; (iii) the reporting of information concerning Eligible Risks; (iv) the payment of premiums to the Corporation; (v) arrangements for the adjustment and payment of hurricane claims incurred on Eligible Risks by the claims adjuster and personnel of the authorized insurer; and (vi) such other terms and provisions agreed to by the parties.
- (g) The entering into a Quota Share Primary Insurance Agreement between the Corporation and an authorized insurer shall be voluntary and at the discretion of the authorized insurer.
- (h) The Corporation's operation standards and administration of such Quota Share Primary Insurance shall be as uniform as is reasonably possible. Such operation standards and the Corporation's administration of Quota

Share Primary Insurance Agreements shall not permit any discriminatory application, or materially different standards or provisions, among insurers as to: (i) the terms, (ii) administration, or (iii) the percentages of coverage in Quota Share Primary Insurance Agreements in the same geographical areas. In addition, the pricing of Quota Share Primary Insurance Agreements and the provisions governing incentive provisions, if any, as well as the consideration paid for servicing policies or adjusting claims shall be as uniform as is reasonably possible for Quota Share Primary Insurance Agreements in the same geographical area.

- (D) No policy, policy form, or endorsement shall be used by the Corporation unless it has been filed with, and approved by, the Office. All coverages, policies, policy forms or endorsements of the Corporation shall comply with applicable law and rules and orders of the Office.
- (E) The Corporation may establish, subject to the approval of the Office and all other applicable provisions of the Plan, additional policy forms needed to fulfill the public purposes of the Corporation.

SECTION 11

POLICY LIMITS AND SCOPE OF COVERAGE

- (A) Policies of the Corporation may be for single lines of Coverage or such combination of lines of Coverage for which the applicant has established eligibility.
- (B) Insurance contracts shall not cover real property located outside the State.
- (C) The limits of property insurance and liability Coverages shall be written in accordance with standards and policies adopted by the Board and incorporated in the Corporation's Underwriting Manual.
- (D) Corporation insurance contracts must limit Coverage on mobile homes or manufactured homes built prior to 1994 to actual cash

value of the dwelling rather than replacement costs of the dwelling.

- (E) Reasonable efforts shall be made to ensure that coverage limits information provided to Corporation policyholders shall be in plain English and clearly displayed.

SECTION 12

HAZARDOUS AND UNINSURABLE RISKS

- (A) The Corporation shall consider, and uniformly apply to all applicants by Coverage, the provisions of the Corporation's Underwriting Manual which are deemed incorporated herein, and the following factors in determining whether an individual risk is so hazardous as to be uninsurable:
 - (1) Whether the likelihood of a loss for the individual risk is substantially higher than for other risks of the same class.
 - (2) Whether the uncertainty associated with the individual risk is such that an appropriate premium cannot be determined.
 - (3) Other factors pertinent to insurability as established by the Board and approved by the Office.
- (B) The acceptance or rejection of a risk by the Corporation shall be construed as the private placement of insurance and the provisions of Chapter 120, Florida Statutes, shall not apply.

SECTION 13

POLICY CANCELLATIONS

- (A) Policies shall be canceled by the Corporation for the nonpayment of premium, including for this purpose policy fees, Policyholder Surcharges, other surcharges of the Corporation on its Policyholders, and Assessments. The Corporation may cancel policies for misrepresentation of any material fact,

either before or after a loss; for failure to comply with underwriting guidelines; in instances where there has been a substantial and material change in the nature of a risk which renders it uninsurable or otherwise ineligible for Coverage in the Corporation and for any other reason permitted by applicable law. To the extent reasonably possible, risk management programs of the Corporation shall be designed to help reduce losses and make risks more attractive to insurers operating in the admitted voluntary insurance market.

- (B) Policies may be canceled by the policyholder by return of the policy to the Agent accompanied by a request to cancel on a certain date.
- (C) Return premium shall be calculated on a pro rata basis whether the policy is canceled by the Corporation or the insured; however, return premium for wind-only policies may be calculated on a short rate basis if coverage is effective during the period of June 1st to November 30th or any portion of such period.
- (D) All policy cancellations shall be in accordance with applicable law and the rules and orders of the Office.

SECTION 14

COMMISSIONS AND SERVICE FEES

The commissions and fees payable by the Corporation to Agents and vendors or other entities compensated on the basis of a percentage of the Corporation's premium shall be determined by the Board and set forth in the Corporation's rating plans. No commission or fee shall be paid by the Corporation on any portion of a rating plan designated by the Corporation, and not disapproved by the Office, as a surcharge or assessment to which commissions and fees are not applicable. No Agent's commission shall be paid by the Corporation on any policy or coverage of the Corporation not bound in accordance with the binding requirements and provisions of this Plan and the Corporation's Underwriting Manual.

SECTION 15

PARTICIPATION RATIOS

- (A) The Participation Ratios of Assessable Insurers shall be determined annually in accordance with this Section. A separate Participation Ratio for each Assessable Insurer shall be computed annually for the Personal Lines Account, the Commercial Lines Account and the High-Risk Account. The Participation Ratio shall establish each Assessable Insurer's share of the amount being levied by the Corporation pursuant to Section 16 of this Plan.
- (B) An Assessable Insurer's Participation Ratio for an Account in any Plan Year shall be in the proportion that the Direct Written Premium of such Assessable Insurer for the Subject Lines of Business during the preceding calendar year bears to the aggregate statewide Direct Written Premium for the Subject Lines of Business for the preceding calendar year. The calculation of a Participation Ratio of an Assessable Insurer for an Account shall be adjusted to reflect, where applicable: (i) the eligibility of one or more Assessable Insurers for Regular Assessment credits or exemptions, as permitted under §627.3511, Florida Statutes, or other applicable law and/or otherwise pursuant to this Plan; (ii) the eligibility of one or more Assessable Insurers for Regular Assessment credits or exemptions under incentive plans adopted by the Board pursuant to §627.351(6)(p)3., Florida Statutes; (iii) the Regular Assessment credits and exemption of Special Purpose Homeowner Insurance Companies; (iv) the Regular Assessment credits and exemptions of Minority Owned Insurers; (v) Regular Assessment credits and exemptions of Limited Apportionment Companies; and (vi) Voluntary Credits, if any. Voluntary Credits, and adjustments to a Participation Ratio as a result of Voluntary Credits, shall be calculated on an individual company basis not on a group basis.
- (C) The Assessable Insurers annually shall report to the Corporation their Direct Written Premium in the preceding year for the Subject Lines of Business. All premium reports shall be on such form and shall be delivered at such time as specified by the Corporation. An Assessable Insurer that fails to submit the required report by the specific time shall have its Participation Ratio calculated by the Corporation,

using such figures as are available to the Corporation and without the benefit of any credits or adjustments allowed by B. above, or as otherwise set forth on the Corporation's Direct Written Premium report form.

- (D) The Corporation shall establish schedules, forms and reports pursuant to which FLSO will annually report to the Corporation the aggregate statewide written premium in the Subject Lines of Business procured by Assessable Insureds. Such written premium information shall be used by the Corporation to determine the Participation Ratio of all Assessable Insureds collectively, which shall be in the proportion that the Direct Written Premium on policies procured by Assessable Insureds for the Subject Lines of Business during the preceding calendar year bears to the aggregate statewide Direct Written Premium for the Subject Lines of Business for the preceding calendar year.
- (E) The Corporation annually shall advise each Assessable Insurer, in writing, of its Participation Ratio in an Account. The notice to each Assessable Insurer shall include a calculation of that Assessable Insurer's Participation Ratio. In addition, the Corporation annually shall advise the FLSO, in writing, of the Participation Ratio in an Account applicable to Assessable Insureds collectively and show the calculation of such Participation Ratio.
- (F) If an Assessable Insurer, Assessable Insured, or the FLSO wishes to contest the Corporation's determination of a Participation Ratio in an Account, it must file an appeal as provided in Section 25.
- (G) Whether or not an appeal is pending, the Corporation reserves the right to revise Participation Ratios in an Account if (1) errors or omissions in the calculations are discovered subsequent to the promulgation of Participation Ratios for Assessable Insurers individually and Assessable Insureds collectively in the Account; (2) the Corporation is informed by the Office of its finding that payment of the assessment by an insurer would endanger or impair the solvency of that insurer; or (3) the Corporation is informed by the Office that the insolvency of an insurer precludes payment by that insurer of an Assessment. When the Corporation revises Participation Ratios because it is

unable to collect an assessment from an insurer, nothing in this Sub-Section is intended to impact the right of another Assessable Insurer, which is required to pay an additional assessment as a result of such failure to pay, to bring a cause of action against such nonpaying insurer.

- (H) The Board may adopt other rules and procedures not inconsistent with this Plan and the Statute for the determination of participation ratios.

SECTION 16

ASSESSMENTS AND POLICYHOLDER SURCHARGES

- (A) The levying of Assessments and Policyholder Surcharges shall be the duty of the Board, and the Executive Director shall administer the implementation and collection of all such Assessments and Policyholder Surcharges.
- (B) The Board shall levy Assessments as authorized by the Statute. Such Assessments shall be levied separately for the Personal Lines Account, the Commercial Lines Account and the High-Risk Account.
- (C) Assessment computations for any Plan Year shall include the expenses of making such Assessments; uncollected amounts from prior Regular Assessments for that year; and items of revenue, expense or additions to reserves required by any loan agreement, trust indenture or other financing agreement which in the opinion of the Board will affect the need for or results of the Regular Assessments.
- (D) No Policyholder Surcharge or Assessment pursuant to this Section, other than Interim Assessments as hereinafter provided for, shall be made by the Corporation for either the Personal Lines Account, the Commercial Lines Account or the High-Risk Account unless a Plan Year Deficit exists, and:
 - (1) the Incurred Losses used in the computation of such Plan Year Deficit are supported by a projection by the Corporation's independent actuary;

- (2) Investment Income or Loss projections used in the computation of such Plan Year Deficit are based on advice of the Corporation's financial advisors;
 - (3) the Board has determined at a properly noticed meeting that the Policyholder Surcharge or Assessment is required by the Statute;
 - (4) the Policyholder Surcharge or Assessment is specifically recommended by the Board;
 - (5) the Board has certified to the Office the Corporation's need for the Policyholder Surcharge or Assessment and that the Board has satisfied the conditions specified in Items 1 through 4 above; and
 - (6) the Office has received the certification from the Board referred to in Item 5 above, has reviewed the arithmetic calculation used to determine the amount to be levied, and has verified and approved the certification by Order.
- (F) Policyholder Surcharge and Assessment Computation Formula for deficits incurred in calendar year 2008 and after:
- (1) Calculate and project the Operating Result of the Account for the Plan Year;
 - (2) Add the Surplus for that Account as adjusted pursuant to Section 16 L from prior Plan Years to the Operating Result of the Account derived from (1) above;
 - (3) If the computations made in (1) and (2) above do not produce a Plan Year Deficit in the Account for the Plan Year, no Policyholder Surcharge or Assessment shall be levied.
 - (4) If such computations produce a Plan Year Deficit, the Board shall levy a Citizens Policyholder Surcharge against the premium of each policyholder in all accounts of the Corporation for a 12-month period, as a uniform percentage of the premium of the policy of up to fifteen (15) percent of such premium. The aggregate amount of the deficit incurred shall be reduced by the

amount of the Citizens Policyholder Surcharge collected or estimated to be collected.

- (5) After accounting for the Citizens Policyholder Surcharge, if any remaining deficit is projected to exist, a Regular Assessment shall be levied pursuant to, and subject to the limitations of, this Section in an amount equal to the remaining Deficit less any Interim Assessments already levied by the Corporation.
- (6) Regular Assessments levied on Assessable Insurers shall be made in accordance with the Participation Ratios calculated under Section 15 B for the Plan Year in which the net Plan Year Deficit occurred determined under (6) above, regardless of the calendar year in which the Assessment is levied. If the Assessable Insurer's Participation Ratios for a Plan Year in which a Plan Year Deficit occurs has not been computed at the time such Plan Year Deficit has been calculated, each Assessable Insurer's Regular Assessment shall be based on the Participation Ratio for the Account in the preceding Plan Year and shall be subsequently adjusted when the applicable Plan Year's ratios are calculated;
- (7) The Regular Assessment percentage levied on Assessable Insureds shall be the ratio of the amount being assessed for an Account under (9) below to the aggregate statewide Direct Written Premium for the Subject Lines of Business for the preceding year;
- (8) Pursuant to the Statute and this Section, after accounting for the Citizens Policyholder Surcharge, the aggregate of all Regular and Interim Assessments on Assessable Insurers and Assessable Insureds for a Plan Year Deficit in an Account incurred in a particular Plan Year may not exceed the greater of:
 - (i) six percent (6%) of the aggregate statewide Direct Written Premium for the Subject Lines of Business for the preceding calendar year, or
 - (ii) six percent (6%) of the Plan Year Deficit for

that Account; and

- (9) After accounting for the Citizens Policyholder Surcharge, when the Plan Year Deficit incurred in an Account in a particular Plan Year exceeds the amount specified by (8)(i), the Board shall levy Interim and Regular Assessments in the aggregate on Assessable Insurers and Assessable Insureds equal to the greater of (8)(i) or (8)(ii). All remaining portions of the Plan Year Deficit for that Account shall be recovered through Emergency Assessments levied by the Board pursuant to Section 17 of this Plan.

After accounting for the Citizens Policyholder Surcharge, when such Plan Year Deficit does not exceed the amount specified in (9)(i), the Board shall levy Interim and Regular Assessments in the aggregate on Assessable Insurers and Assessable Insureds equal to the amount of such Plan Year Deficit.

- (G) The Board may levy Interim Assessments on Assessable Insurers as necessary for each Account. Such Interim Assessments shall be based upon the projected cash requirements of the Account for the six month period immediately following the levying of such an Interim Assessment, and shall be subsequently adjusted when the Plan Year Deficit for the Account is credibly projected. The aggregate of all Interim Assessments levied for an Account as to any Plan Year shall not exceed the limits provided therefore in Section 16(E)(7) above. No Interim Assessments as provided for in this subsection shall be made by the Corporation for either the Personal Lines Account, the Commercial Lines Account or the High-Risk Account unless:

- (1) the Incurred Losses used in the computation of the projected cash requirements of the Account for the six-month period immediately following the levy of the Interim Assessment are supported by reasonable projections by the Corporation;
- (2) Investment Income or Loss projections used in the computation of the projected cash requirements are based on advice of the Corporation's financial advisors;
- (3) the Board has determined at a properly noticed meeting

that the Interim Assessment is in the best interest of the Corporation and is consistent with the Statute;

- (4) the Interim Assessment is specifically recommended by the Board;
- (5) the Board has certified to the Office the Corporation's need for such Interim Assessment and that the Board has satisfied the conditions specified in items 1 through 4 above;
- (6) the Office has received the certification from the Board referred to in item 5 above, has reviewed the arithmetic calculation involved in the Board's determination, and has verified and approved the certification by Order.

All Interim Assessments collected from Assessable Insurers pursuant to this subsection for an Account shall be credited against such Assessable Insurer's Plan Year Assessment obligations for such Account as may otherwise be levied pursuant to this Section. All other provisions of this Section concerning Assessable Insurer's Assessments, not in conflict with this subsection, shall be applicable to the imposition, levying and collection of Interim Assessments.

- (H) All Interim Assessments and Regular Assessments, and provided for in this Section shall be paid within thirty (30) days from the date notice of Assessment is received. A penalty, or late charge, or interest, as adopted by the Board, shall be applied to the Assessment of any Assessable Insurer or Assessable Insured in the event that the Assessment of the Assessable Insurer's or Assessable Insured is not paid in full within thirty (30) days.
- (I) A Regular Assessment levied on a Limited Apportionment Company for a deficit occurring in the High-Risk Account in calendar year 2006 and thereafter, may be paid on a monthly basis as the assessments are collected by the Limited Apportionment Company from its insureds. However, the Regular Assessment must be paid in full within 12 months after being levied.
- (J) An Assessable Insurer may, within 21 days from the date the Notice of Assessment is mailed by Citizens, petition the Office, with a copy to Citizens, for a deferral. Upon

approval by the Office, an Assessable Insurer may defer payment of the Regular Assessment if the Office finds that payment of the Assessment would endanger or impair the solvency of the insurer.

- (K) If the Corporation is unable to collect all amounts assessed against Assessable Insurers within ninety (90) days of the Assessments being levied, the uncollected or deferred Assessment amounts shall be levied as an additional Regular Assessment against the other Assessable Insurers.
- (L) If there is a positive Operating Result attributable to an Account in a Plan Year, such amount shall be held as Surplus in that Account. The Surplus available to offset a negative Operating Result in either the Personal Lines Account, the Commercial Lines Account, or the High-Risk Account shall be reduced by unamortized bonuses, amounts appropriated for contingent catastrophic reserves, deferred financing costs, and net assets related to pre-event financing . . . Such Surplus as adjusted shall be used to offset any negative Operating Result of an Account for that purpose prior to assessing Assessable Insurers and Assessable Insureds as to any Plan Year for that Account.

Notwithstanding the foregoing, for the purpose of drawing moneys from the Note Proceeds Account established under the Trust Indenture for the High-Risk Account to pay policyholder claims, the Surplus available to offset a negative Operating Result for the High-Risk Account shall be reduced by unamortized bonuses, amounts appropriated for contingent catastrophe reserves, deferred financing costs, net assets related to pre-event notes, and amounts in defeasance accounts.

- (M) All Assessments levied by the Corporation on Assessable Insureds shall be collected pursuant to the Statute from such Assessable Insureds at the time the Surplus Lines Agent collects the surplus lines tax required by the Surplus Lines Law. The appropriate amount collected by Surplus Lines Agents for any Assessment on Assessable Insureds shall be paid to

FSLSO by the Surplus Lines Agent at the time such agent pays the applicable surplus lines tax to FSLSO.

The Corporation shall establish a periodic remittance schedule for payment by FSLSO to the Corporation of all Assessments received by FSLSO.

- (N) The Board may adopt other rules and procedures not inconsistent with this Plan and the Statute for the collection of Assessments and Policyholder Surcharges.
- (O) If an Assessable Insurer, an Assessable Insured, a Corporation's policyholder, or the FSLSO wishes to contest the Corporation's determination of an Assessment or Policyholder Surcharge, it must do so as provided in Section 25.
- (P) If the amount of any Policyholder Surcharges collected by the Corporation from its policyholders exceeds the amount of the Plan Year Deficit for which it was collected, the Corporation shall retain such excess amounts. After accounting for the Citizens Policyholder Surcharge, if the amounts of any Assessment collected by the Corporation from Assessable Insurers, collected by the FSLSO from Assessable Insureds, and recouped by an Assessable Insurer from its policyholders exceed the remaining amount of the Plan Year Deficit for which such amounts were collected, such excess amounts shall be remitted to and retained by the Corporation in a reserve to be used by the Corporation, as determined by the Board and approved by the office, to pay any past, present and future claims or reduce any past, present, or future plan-year deficits or to reduce outstanding debt.

SECTION 17

EMERGENCY ASSESSMENTS

- (A) The levying of Emergency Assessments shall be the duty of the Board, and the Executive Director shall administer the implementation and collection of Emergency Assessments.
- (B) Upon a determination by the Board that a Plan Year Deficit in an Account has been incurred, or is projected to be incurred,

in a particular Plan Year in an amount which exceeds the maximum aggregate Regular Assessment on Assessable Insurers and Assessable Insureds specified in Sub-Section 16(E)(7) of this Plan, plus the amount that is expected to be recovered through the Citizens Policyholder Surcharge, the Board shall levy any remaining projected Plan Year Deficit as an Emergency Assessment to be collected by all Assessable Insurers, Surplus Lines Agents, the Corporation, Special Purpose Homeowner Insurance Companies, Limited Apportionment Companies, and Minority Owned Insurers from policyholders upon the issuance or renewal of policies for Subject Lines of Business for as many years as necessary to cover the deficit in the Account.

- (C) The amount of an Emergency Assessment levied in a particular year shall be a uniform percentage of that year's Direct Written Premium for the Subject Lines of Business and that year's direct written premium for all Accounts of the Corporation as determined by the Board and verified by the Office pursuant to Sub-Section F. below. In setting the uniform percentage to be levied in a particular Plan Year, the Board shall take into consideration the amounts of any Reimbursables, the actual or projected amount of uncollected Assessments, and Regular or Emergency Assessments that are collected but become unavailable as a result of having been pledged as security for, or for application in respect of, indebtedness of the Corporation imposed in a prior year with respect to the Plan Year Deficit.
- (D) The aggregate amount of Emergency Assessments levied in any calendar year as a result of a Plan Year Deficit incurred in an Account in a particular Plan Year may, at the discretion of the Board, be less than but may not exceed the greater of:
- (i) ten percent (10%) of the amount needed to cover the Plan Year Deficit, plus interest, fees, commissions, required reserves, and other costs associated with financing of the Plan Year Deficit, or
 - (ii) ten percent (10%) of the aggregate statewide Direct Written Premium for the prior calendar year for the Subject Lines of Business and the direct written premium for all Accounts of the Corporation for the prior calendar year, plus interest, fees, commissions, required

reserves, and other costs associated with financing of the Plan Year Deficit.

To the extent the aggregate amount of Emergency Assessments will not exceed the greater of (i) or (ii) above, the Board shall impose Emergency Assessments in the amount required by any applicable loan agreement, trust indenture or other financing agreement.

(E) The following rules and procedures apply to the collection and remittance of Emergency Assessments:

- (1) An Assessable Insurer shall collect the Emergency Assessment from a policyholder with a policy that is issued or renewed at the same time it collects a premium payment. Emergency assessment remittances are due from Assessable Insurers on the full amount of the direct written premiums attributable to policies issued or renewed, even if the Assessable Insurer delays collection of the entire premium through billing plans or other similar mechanisms.
- (2) Unless otherwise provided by the Board, Assessable Insurers and the FLSO shall remit Emergency Assessments to the Corporation monthly.
- (3) When an Assessable Insurer or the FLSO is required to return unearned premium to a policyholder or an Assessable Insured, it shall also return a pro-rata amount equivalent to collected Emergency Assessment attributable to the unearned premium, which it shall offset against the payment of Emergency Assessments due the Corporation.
- (4) With respect to Corporation policyholders, the Corporation shall collect and return Emergency Assessments as provided in Sections 9 and 13.
- (5) A penalty, late charge, or interest, as adopted by the Board, shall be applied to the Emergency Assessment of an Assessable Insurer, Assessable Insured, or a Corporation policyholder in the event that the Assessment is not paid in full within thirty (30) days.
- (6) The Board may adopt other rules and procedures not

inconsistent with this Plan and the Statute for the collection of Emergency Assessments from Assessable Insurers, Assessable Insureds, and Corporation policyholders.

- (F) No Emergency Assessment pursuant to this Section shall be made by the Corporation for any Account unless:
- (i) The amount of an Emergency Assessment, and the remittance schedule for Assessable Insurers and the FLSO has been determined by the Board at a properly noticed meeting.
 - (ii) The Board has advised the Office in writing of its determination of the amount of the Emergency Assessment and that such determination satisfied the conditions specified in Item (i) above.
 - (iii) The Office has received the determination from the Board referred to in Item (ii) above, has reviewed the arithmetic calculation of the Assessment, and has, within thirty (30) days after the receipt of the information on which the determination was made, verified the Emergency Assessment by Order. Whereupon, the Corporation shall advise all Assessable Insurers and the FLSO on behalf of all Surplus Lines Agents and all other insurers required by law to collect Emergency Assessments, in writing, of the Board's action regarding the levying of an Emergency Assessment and the remittance schedule.
- (G) Emergency Assessments levied under this section shall not be subject to premium tax, fees, or commissions paid by the Corporation.
- (H) In accordance with 627.351(6)(c)15, Emergency Assessments levied under this section may not be deferred.
- (I) If an Assessable Insurer, an Assessable Insured, a Corporation's policyholder, or the FLSO wishes to contest the Corporation's determination of an Assessment, it must do so as provided in Section 25.
- (J) After accounting for the Citizens Policyholder Surcharge and the Regular Assessment, if the amount of any Emergency Assessment exceeds the amount of the Plan Year Deficit for

which it was collected, such excess amounts shall be remitted to and retained by the Corporation in a reserve to be used by the Corporation, as determined by the Board and approved by the office, to pay any past, present or future claims or reduce any past, present, or future plan-year deficits or to reduce outstanding debt.

SECTION 18

ESTABLISHMENT AND ADMINISTRATION OF ACCOUNTS

- (A) The Executive Director shall establish a Commercial Lines Account, a Personal Lines Account and a High-Risk Account and shall maintain such Accounts in accordance with the Statute, Plan and any applicable loan agreements, trust indentures or other financing agreements. The Accounts as herein provided for shall be accounted for separately by the Corporation to assure the accuracy of the Accounts for each Plan Year. Each Account shall be maintained separately as to all revenues, assets, liabilities, losses and expenses. Subject to the limitations of B below, the Corporation may pledge its revenues, assets or other property to secure indebtedness or other obligations owed to lenders, holders of Bonds, or providers of Financial Products, regardless of the Account or Plan Year Deficit for which levied or attributable. Pledged revenues, property or assets of the Personal Lines Account and Commercial Lines Account may be commingled when in the custody of any authorized trustee, escrow agent or other custodian for the lenders, holders of Bonds or providers of Financial Products in respect of such Accounts so that the granting of parity interests to such various lenders, holders and providers in such security may be effectuated.
- (B) The three Accounts shall be maintained separately by the Corporation, as provided by the statute, in accordance with the terms, if any, of the financing documents. When the financing obligations in accordance with such financing documents are no longer outstanding, the Corporation may use a single account for all revenues, assets, liabilities, losses and expenses of the Corporation.

During such time as the three Accounts exist, creditors of the FWUA shall have a claim and recourse to the High-Risk Account and shall have no claim against, or recourse to, the Personal Lines Account or the Commercial Lines Account, and creditors of the Personal Lines Account and the Commercial Lines Account may have a claim and recourse to the Personal Line Residential Account and the Commercial Lines Account and shall have no claim against, or recourse to, the High-Risk Account.

- (C) Revenues, assets, liabilities, losses and expenses not directly attributable to a particular Account shall be pro rated by the Corporation among the Accounts in such proportion as the Board shall determine either (i) according to a formula using such measures as the Board may determine are reasonable and equitable such as (by way of example only) number of staff, number of policies in force, loss exposure or written premium, or (ii) on the basis of other equitable criteria as the Board may determine are reasonable and equitable, such as (by way of example only) the relative benefit received by each Account and/or the relative burden incurred by each Account in respect of such revenues, assets, liabilities, losses and expenses.
- (D) Any indenture trustee and each co-indenture trustee and separate indenture trustee (if any) appointed under a trust indenture, and each collateral trustee, co-collateral trustee and separate collateral trustee, if any, appointed under a security agreement, and each bank agent, co-bank agent and separate bank agent, if any, appointed under a bank collateral agreement, which trust indenture, security agreement or bank collateral agreement, as applicable, has been approved by the Office under the Plan, shall constitute an "authorized trustee, escrow agent or other custodian" for purposes of this Section 18.

SECTION 19

BORROWING POWERS

- (A) The Board is authorized to arrange for and consummate a taxable or tax-exempt borrowing or borrowings of money for the Corporation to meet its anticipated financial obligations or

to fund a Plan Year Deficit or an anticipated Plan Year Deficit upon a finding by the Board that the funds derived, or to be derived, from the borrowing are reasonably necessary for the Corporation to currently meet, or in the future be able to meet, its mandated purposes or financial obligations as set forth in the Plan or the Statute.

- (B) Any loan agreement or trust indenture shall be subject to the approval of the Board and the Office. The Corporation shall, in advance of execution of any loan agreement or trust indenture, file with the Office a statement of the purpose of the indebtedness to be incurred thereby, and a copy of such loan agreement or trust indenture (or a substantial final form thereof) and an estimate of the costs to be incurred by the Corporation in the procurement of any such indebtedness.
- (C) Any indebtedness incurred, and the costs incurred by the Corporation in processing and procuring such indebtedness, shall be properly reflected on the books and records and financial statements of the Corporation in accordance with applicable accounting principles.
- (D) In effectuating and implementing the provisions of this Section, the Corporation shall have all power, right and authority, subject to the limitations in Section 18 above, to pledge, or grant security interests in any income, Assessments levied, or to be levied under Sections 16 or 17, surcharges, premiums, investment income, projected revenue from the FHCF and other reinsurance receivables, other funds available to the Corporation, assets, proceeds of Bonds authorized under Section 20 of this Plan, and any other interest, right, title or expectation available to the Corporation as collateral or security for any such loan, line of credit, or other obligation or indebtedness, and shall have all other power reasonable and necessary to effectuate the requirements of this Section and Section 20 below. Without limiting the foregoing authority, the Corporation is authorized to take all actions needed to facilitate tax-free status for any such Bonds or other indebtedness, including the formation of trusts or other affiliated entities. Any pledge or security interest granted pursuant to this Section 19, may be on a parity with any pledge or security interest granted in connection with any bonded indebtedness issued by, or on behalf of the Corporation.

SECTION 20

BONDING POWER

- (A) Bonding in Conjunction with a Unit of Local Government. The governing body of any unit of local government, any resident of which is insured by the Corporation, may issue Bonds as defined in §125.013 or §166.101, Florida Statutes, from time to time to fund an assistance program in conjunction with the Corporation for the purpose of defraying or refinancing Plan Year Deficits of the Corporation. Revenue Bonds may not be issued under this Section 20(A) until validated pursuant to Chapter 75, Florida Statutes, unless a state of emergency is declared by executive order or proclamation of the Governor pursuant to §252.36, Florida Statutes, making such findings as are necessary to determine that it is in the best interests of, and necessary for, the protection of the public health, safety, and general welfare of the residents of the State and declaring it an essential public purpose to permit certain municipalities or counties to issue such Bonds as will permit relief to claimants and policyholders of the Corporation. The unit of local government shall enter into such contracts with the Corporation as are necessary to carry out this paragraph. Any Bonds issued under §627.351(6)(p)2., Florida Statutes, shall be payable from and secured by monies received by the Corporation from Emergency Assessments under §627.351(6)(b)3.d., Florida Statutes, and, to the extent permitted by law, Regular Assessments and other funds available to the Corporation, and assigned and pledged to or on behalf of the unit of local government for the benefit of the holders of such Bonds. The funds, credit, property and taxing power of the state or of the unit of local government shall not be pledged for the payment of such Bonds.
- (1) The Corporation may incur reasonable expenses in conjunction with the issuance or proposed issuance of a Bond issue or other borrowing. Such reasonable expenses shall include, but are not limited to, obtaining a rating for the Bond or other obligations; obtaining legal opinions; appearing before a body of investors for promotional purposes to encourage investing in

Corporation Bonds; registering the Bond issue, and other expenses reasonably related to the Bond issue.

- (2) Bonds issued on behalf of the Corporation by a unit of local government shall be issued with such terms and conditions as the Corporation may deem proper.
 - (3) The Corporation may, subject to the limitations in Section 18 above, pledge or offer as security for a Bond issue, in conjunction with a unit of local government, any income, asset or expectation of the Corporation. The Corporation may pledge or encumber the income which is, or may be, receivable under Emergency Assessments as security for Bonds issued in conjunction with a unit of local government. However, the Corporation may not transfer to a third party the power, right or duty to impose Assessments or Policyholder Surcharges.
- (B) Bonds issued by the Corporation without the assistance of any unit of local government. The Corporation may incur taxable or tax exempt debt in any form legally cognizable, including debt evidenced by a Bond or Bonds issued directly by the Corporation, and may use the proceeds of such Bond issue to defray expenses, fund Plan Year Deficits, purchase reinsurance, repay principal and interest of other debt incurred to defray a Plan Year Deficit or any portion thereof, or fund any other Corporation expense or liability.
- (1) The Corporation also may incur reasonable expenses in connection with Bonds issued without the cooperation of a unit of local government to enhance, encourage or increase the sale or placement of such Bonds among voluntary investors. Such reasonable expenses shall include, but are not limited to obtaining a rating for the Bond issue, obtaining legal opinions, appearing

before a body of investors for promotional purposes to encourage private investing in Corporation Bonds, registering the Bond issue or such other steps reasonably calculated to enhance, encourage or increase the sale or placement of such Bonds among voluntary investors, and other expenses reasonably related to the Bond issue, which expenses may be funded by the Bonds.

- (2) The Corporation may, subject to the limitations in Section 18 above, pledge or offer as security for a Bond issue, not in conjunction with a unit of local government, any income, asset or expectation of the Corporation. The Corporation may pledge or encumber the income which is, or may be, receivable as Assessments and surcharges imposed under the Statute, projected revenues from the FHCF, other reinsurance receivables and surcharges and other funds available to the Corporation as security for Bonds issued not in conjunction with a unit of local government. However, the Corporation may not transfer to a third party the power, right or duty to impose a Assessment or Policyholder Surcharge.
 - (3) The Corporation shall offer any Bonds not issued in conjunction with a unit of local government with such terms and conditions as the Corporation may deem proper.
 - (4) The Corporation may, but is not required to, seek judicial validation under Chapter 75, Florida Statutes, of its Bonds or other indebtedness issued without the assistance of any unit of local government.
- (C) In effectuating and implementing the provisions of this Section, the Corporation shall have, subject to the limitations in Section 18 above, all power, right and authority to pledge, or grant security interests in any income, Assessments levied, or to be levied under Sections 16 or 17 of this Plan, or surcharge, premiums, investment income, projected revenues from the FHCF, other reinsurance receivables and other funds available to the Corporation, assets, and any other interest, right, title or expectation available to the Corporation as security for any such Bonds, or Bonding, and shall have all other power reasonable and necessary to effectuate the requirements of this Section. Without limiting the foregoing authority, the Corporation is

authorized to take all actions needed to facilitate tax-free status for any such Bonds or other indebtedness, including the formation of trusts or other affiliated entities.

- (D) It being necessary that the Corporation, in advance of the occurrence of a hurricane or other weather-related event, be in position to immediately pay claims, and also in order to develop in advance a record in the financial markets by one or more representative Bond issues that will facilitate ready access to the financial markets for additional amounts immediately after a hurricane or other weather-related event and prior to the occurrence of a Plan Year Deficit, the Corporation is authorized to provide for the issuance of Bonds through a unit of local government, as provided in subsection A of this Section 20, or issue Bonds directly without the assistance of any unit of local government, as provided in subsection B of this Section 20, in the absence of a hurricane or other weather-related event. The Board hereby determines that such advance financings will constitute financing mechanisms under subparagraph (c)3. of the Statute that will efficiently meet the financial obligations of the Corporation and that such financings are reasonably necessary to effectuate the requirements of the Statute.

SECTION 21

CORPORATION INVESTMENT POLICY

- (A) The Corporation shall adopt an investment policy and procedures that is consistent with Florida Statutes, prudent financial management, and restrictions found in applicable investment documents.
- (B) The Assets of the Corporation may be invested and managed by the State Board of Administration.

SECTION 22

DEPOPULATION, INCENTIVE, AND CREDIT PROGRAMS

- (A) The Board shall develop and adopt programs and criteria for the implementation of the credits, bonuses and exemptions as provided under the Statute, as well as programs and procedures seeking to reduce both new and renewal writings in the Corporation pursuant to applicable provisions of the Statute and this Plan.
- (B) The Board shall develop and promulgate the criteria and policies for the application of Regular Assessment credits and exemptions for Assessable Insurers qualifying as a Limited Apportionment Company.
- (C) Further, the Board may promulgate policies providing credits to Assessable Insurers against Assessment or other liability as an incentive for Assessable Insurers to take risks out of the Corporation and keep risks out of the Corporation by maintaining or increasing said Assessable Insured's voluntary writings. However, no Assessable Insured, policyholder of the Assessable Insurers or of the Corporation shall be exempt from Emergency Assessments imposed pursuant to Section 17 above.
- (D) In implementing any programs, policies or criteria for the removal or keeping out of risks from the Corporation pursuant to the Statute or this Plan, the Corporation shall contractually acknowledge §627.3517, Florida Statutes, and the provisions of the Statute concerning the obligation of such Assessable Insurers and the Corporation to the Agents of such policy sought to be removed or kept out of the Corporation.

SECTION 23

IMMUNITY

Except as provided by law, there shall be no liability on the part of, and no cause of action of any nature shall arise against, any Assessable Insurer or its agents or employees, the Corporation or its agents or employees, members of the Board or their designees at a board meeting, Corporation committee members, or the Office or its representatives, for any action taken by them in the performance of their duties pursuant to § 627.351(6), Florida Statutes.

SECTION 24

INDEMNIFICATION OF OFFICERS, EMPLOYEES AND OTHERS

- (A) Extent of Indemnification. The Corporation shall indemnify: (i) its Board members; (ii) Board Committee members; (iii) employees of the Corporation; and (iv) employees of the Department or Office; (v) former or current Board or Committee members, or former or current Corporation or Department or Office employees; (vi) whether a natural or legal person; (vii) whether individually or as a group; (viii) where applicable, the estate, executor, administrator, heirs, legatees, devisees, trustees, assigns, or successors in interest of any such person; (ix) all persons formally employed by, or previously acting in, any of the aforementioned capacities for the FRPCJUA and FWUA, including all individuals having served as members of the Board of the FRPCJUA or FWUA and all members of standing or appointive committees of each; and (x) Technical Advisory Committee members. Such individuals are hereinafter individually referred to as the "Indemnified Person" and collectively referred to as the "Indemnified Persons". Indemnification shall be made, subject to, and to the fullest extent permitted by, this Section 24 and applicable Federal and State law, where claims, proceedings, or causes of action are based upon allegations as to the conduct of any person contemplated by this Plan in the performance of its/his/her duties, or in the exercise of its/his/her discretion in the performance of duties, owed to the Corporation or the FRPCJUA and FWUA.
- (B) Right of Indemnification. Such indemnification shall not depend upon whether or not the Indemnified Person is a member of the Board, or any committee or subcommittee thereof, Board member, Corporation employee, Department or Office employee, or the estate, executor, administrator, heir, legatee, devisee, trustee, assign, or successor in interest of any such person at the time any claim, action, suit or proceeding is begun, prosecuted or threatened, nor on whether the liability to be indemnified was incurred, or the act or omission occurred, prior to the adoption of this Plan; provided however, that the Corporation's duty to indemnify any Indemnified Person shall arise only where claims, proceedings,

or causes of action are based upon allegations as to the conduct of such Indemnified Person in the performance of its/his/her duties, or in the exercise of its/his/her discretion in the performance of duties owed to the Corporation.

- (C) Effect on Other Rights and limitations. The right of indemnification hereunder shall not be exclusive of other rights the Indemnified Person may have as a matter of law or otherwise. Nothing in this Section should be construed to indemnify any person when such indemnification is prohibited by State or Federal law.
- (D) Apportioning Expenses of Indemnification. The indemnification provided for in this Section shall be deemed to be an expense of the Corporation.
- (E) Corporation's Duty to Defend Indemnified Persons. The Corporation shall defend any Indemnified Person from all claims, proceedings, and actions, whether in contract, regulatory, administrative, or tort, or whether arising in law or equity, where such claims, proceedings, or actions are based upon allegations as to the conduct of such persons in the performance of its/his/her duties, or in the exercise of its/his/her discretion in the performance of duties owed to the Corporation. Subject to this Section, the Corporation shall advance reasonable litigation costs and attorneys fees to any Indemnified Person upon proper demand.
- (F) Limitations on the Corporation's Duty to Defend Indemnified Persons. The Corporation shall have no duty to oversee the conduct of any litigation or proceeding or otherwise assure the competence of any counsel retained by any Indemnified Person. However, if the Corporation, in its sole discretion, determines that any interest or obligation (including, without limitation, any obligation under this Section 24) of the Corporation is actually or potentially affected or implicated in any litigation or proceeding brought by or against any Indemnified Person, the Indemnified Person shall have a duty, as a condition to any rights under this Section, to cooperate with the Corporation and its counsel, in order to advance and protect the interests or obligations of the Corporation and to lower the costs of litigation.

- (G) Limited Hold Harmless Provision. The Corporation shall hold harmless an Indemnified Person who makes a request for payment, otherwise proper under this Section, for reimbursement of final judgments or assessments of money damages, restitution, or Federal, State or local administrative penalties, fines or other monetary sanctions made against them, including interest accrued prior to judgment or assessment, of all reasonable amounts paid or agreed to be paid upon settlement, or reasonable attorney's fees and costs incurred. All settlements shall be subject to the final approval of the Corporation, which shall not be unreasonably withheld so long as such settlements are reasonable under the circumstances and proper under the provisions of this Section. The Corporation has no obligation to pay for any settlement it has not approved. This right to request payment of such amounts is not subject to alienation or assignment, and no Indemnified Person shall have the right to create a contingent liability on the part of the Corporation for such payments by attempting any such assignment or alienation to any other person, including any attorney representing such Indemnified Person. Where, in its sole discretion, the Corporation determines that such requests or payments are proper, reasonable and promote the purposes of this Section, the Corporation may authorize payment for arbitration awards, costs of arbitration or mediation, or similar expenses or awards arising from alternative dispute resolution procedures.
- (H) Criminal or Unlawful Conduct. Notwithstanding the foregoing, the Corporation, in its sole discretion, may determine whether to hold harmless, indemnify, or advance costs of defense to any Indemnified Person subject to a criminal charge, publicly disclosed criminal investigation, or internal investigation by the Corporation, which charge or investigation is based upon or arises out of alleged or possible criminal or unlawful conduct by such Indemnified Person that is related to the conduct, claim, proceeding, or cause of action for which indemnification is sought.
- (I) Reimbursement. If the Indemnified Person is convicted or pleads nolo contendere to a criminal charge or is found to be liable or agrees as to liability to the Corporation based on unlawful conduct, that is related to the conduct, claim, proceeding, or cause of action for which indemnification is

sought, the Indemnified Person shall reimburse the Corporation for all amounts advanced by or paid for by the Corporation under this Section.

- (J) Condition Precedent. As a condition precedent to indemnification under Section 24, the Corporation, in its sole discretion, may require anyone eligible for indemnification to enter into a written agreement implementing the terms of this Section.
- (K) Decisions of the Corporation. All decisions of the Corporation under this Section shall be made by the President, with the advice of legal counsel, and communicated to the Board prior to any decision being made; except that the decision may be made by the Board if the President, Chairman of the Board, or the General Counsel determines that the matter should be referred to the Board for a decision.
- (L) Retroactive application. Changes to this Section of this Plan of Operation adopted by the Board on January 25, 2007 are intended to have retroactive application to the fullest extent permitted by law.
- (M) Contractual indemnification. Nothing in this Section 24 is intended to prevent the Corporation from entering into contractual agreements providing for the Corporation to indemnify and hold harmless individuals or entities retained by the Corporation.
- (N) Immunity Not Waived. Nothing in this section is intended to waive the immunity provided to the Corporation or an Indemnified Person under the Statute or other law.

SECTION 25

APPEAL

(A) Any person or entity aggrieved with respect to any action or decision of the Board, including therein specifically any dispute, cause of action, claim or controversy arising under, or out of, any contract or agreement pertaining to bonding or borrowing by the Corporation, may make written request of the Board for specific relief as provided in this Sub-Section.

(1) All requests for relief or redress shall be deemed Appeals and shall be delivered by certified mail to the Executive Director in writing within twenty-one (21) days of the rendering of the action or decision sought to be reviewed.

(2) The Executive Director shall schedule any such Appeal for hearing before the Board not less than five (5) days nor more than forty (40) days from the Executive Director's receipt of the Appeal.

(3) Any person or entity whose Appeal is denied, in whole or in part, by the Board may appeal the actions of the Board in writing to the Office within ten (10) days of receipt of the written notice of the Board's decision; provided that, as provided in §627.351(6)(s), Florida Statutes, the policies and decisions of the corporation relating to incurring debt, levying of assessments and the sale, issuance, continuation, terms and claims under corporation policies, and all services relating thereto, are not subject to the provisions of chapter 120, Florida Statutes.

(B) As provided in Sections 15, 16, and 17 if an Assessable Insurer, an Assessable Insured, or the FLSO wishes to contest the Corporation's determination of a Participation Ratio in an Account, or if an Assessable Insurer, an Assessable Insured, a Corporation policyholder, or the FLSO wishes to contest the Corporation's determination of an Assessment or Surcharge applicable to it, the following provisions apply:

(1) The Assessable Insurer, the Assessable Insured, the Corporation policyholder, or the FLSO must submit a letter of appeal by certified mail to the Corporation's Executive Director within twenty-one (21) days after the date the Corporation mailed the notice of the

Participation Ratio, Assessment or Surcharge, as the case may be.

- (2) If a letter of appeal is submitted to the Corporation's Executive Director within the time frame specified in sub-paragraph (1), the Board shall meet within thirty (30) days from the Executive Director's receipt of the appeal. The Board shall notify the protesting Assessable Insurer, Assessable Insured, the Corporation policyholder, or the FLSO of its decision on or before fifteen (15) days after such Board meeting. As provided in §627.351(6)(s), Florida Statutes, the policies and decisions of the corporation relating to levying of assessments are not subject to the provisions of chapter 120, Florida Statutes.
- (3) The failure of an Assessable Insurer, Assessable Insured, a Corporation policyholder, or the FLSO to file a letter of appeal within the time frame specified in this Sub-Section shall constitute approval of and consent to its Participation Ratio or the Assessment or Surcharge, as the case may be, and such Participation Ratio, Assessment or Surcharge shall become final and binding on such Assessable Insurer, Assessable Insureds, Corporation policyholders, and the FLSO, as the case may be.
- (4) If an Assessable Insurer, Assessable Insured, a Corporation policyholder, or FLSO files an appeal under this Section and there has been no final determination as to the merit of said appeal, the Assessable Insurer, Assessable Insured, or Corporation policyholder shall be obligated hereunder to pay all applicable Assessments levied by the Corporation in full pending the final determination of the appeal. The institution and filing of an appeal shall not diminish or stay the obligations of the Assessable Insurer, Assessable Insured, or the Corporation's policyholder to timely pay said Assessment obligations.
- (5) The appeals procedure in this Plan shall control any dispute involving an Assessable Insurer, an Assessable Insured, the Corporation's policyholders, and the Corporation concerning the need for, the amount of, or the calculations and assumptions used to determine any

Assessment, including calculation of Participation Ratios.

- (6) If a final determination is made that the appealing Assessable Insurer, an Assessable Insured, or a Corporation policyholder is entitled to a refund of a paid Assessment or Surcharge, or any portion thereof, the Corporation shall return to the Assessable Insurer, to FLSO on behalf of the Assessable Insured, or the Corporation policyholder those sums due it together with interest thereon equal to the weighted average interest as paid by the Florida State Treasurer's Special Purpose Investment Account calculated from the date of said Assessable Insurer's, Corporation policyholder's, or FLSO payment of the Assessment or Surcharge to the date of refund.
- (C) This Section shall not apply to the termination of employment of any employee of the Corporation. Any terminated employee may avail himself or herself of any judicial remedies available.
- (D) A transcript of any appeal hearing shall be made at the time of hearing and supplied to any party upon request subject to the requested party paying the reasonable costs of transcription.
- (E) Nothing in this Section 25 is intended to waive the immunity provided in Section 23 and §627.351(6)(r), Florida Statutes.

SECTION 26

RESIDENT AGENT FOR SERVICE OF PROCESS

The Chief Financial Officer of the State of Florida, and his or her successor in office, is designated the Corporation's attorney for service of process of all legal process issued against it in any civil action or proceeding in this state. Service of process upon the Chief Financial Officer of the State of Florida shall be the sole method of service of process upon the Corporation. In any suit arising under the Statute, this Plan, or any agreement

(pertaining to the issuance or payment of debt) authorized by the Statute or this Plan, the Circuit Court in and for Leon County, Florida shall be deemed the Court of Competent Jurisdiction for such actions unless otherwise agreed to in writing by the Corporation.

SECTION 27

PLAN AMENDMENTS

The Board may propose and adopt amendments to the Plan upon a determination, by a majority of the members of the Board. Any amendment adopted by the Board shall be adopted at a duly noticed meeting and shall be effective only upon approval by the Financial Services Commission, before or after such action by the board.

SECTION 28

DISSOLUTION AND DEACTIVATION

- (A) Upon a determination by the Office that the conditions giving rise to the establishment and activation of the Corporation no longer exist, and upon the consent and approval thereto by Order of the Office, the Corporation may be dissolved. Upon dissolution, the assets of the Corporation shall be applied first to pay all debts, liabilities and obligations of the Corporation, including the establishment of reasonable reserves for any contingent liabilities or obligations, and all remaining assets of the Corporation shall become property of the state and deposited in the Florida Hurricane Catastrophic Fund created under §215.555, Florida Statutes, or as otherwise directed by Statute. No dissolution shall take effect as long as the Corporation has Bonds or other financial obligations outstanding unless adequate provision has been made for the payment of the Bonds or other financial obligations pursuant to the documents authorizing the issuance of the Bonds or other financial obligations.
- (B) The activation and coverages of the Corporation shall be reviewed at least annually by the Board. Should the Board find that the conditions giving rise to the activation by the

Corporation of certain coverages no longer exist, the Board may, subject to the approval of the Office, deactivate the Corporation's writing of such coverage.

SECTION 29

CONSTRUCTION

This Plan shall be construed to conform with, and when necessary, shall be amended to conform to the provisions of the Statute or orders of the Financial Services Commission.

SECTION 30

SELECTION OF FINANCIAL SERVICES PROVIDERS AND UNDERWRITERS

- (A) If and when the Corporation undertakes to select financial service providers or underwriters, the Corporation shall provide reasonable notice by publishing such notice in at least two(2) newspapers of general circulation in the State of Florida and at least in one (1) financial trade journal. The notice in such publications shall appear once a week for two (2) consecutive weeks. The notice shall include specific information about the procedure for submission of proposals. Furthermore, the notice shall provide appropriate information on whom to contact at the Corporation regarding information about the bond issuance. In the event of an emergency, as reasonably determined by the Board, the Corporation is not bound to the notice provisions herein, but rather shall use reasonable notice based on the existing situation and circumstances.
- (B) The Corporation shall not engage the services of any person or firm as a securities broker or bond underwriter that is not eligible to be engaged by the State under the provisions of §215.684, Florida Statutes.
- (C) The Corporation shall make all selections of any financial service providers and/or managing underwriters at a noticed

public meeting, noticed in the same way as other publicly noticed meetings held by the Board of the Corporation.

- (D) Before any managing underwriter or financial advisor may be chosen by the Corporation to participate in any way in any bond or other security issuance allowed pursuant to §621.351(2)(g)(2), Florida Statutes, the managing underwriter or financial advisor must provide to the Corporation a disclosure statement required by §627.3513, Florida Statutes, containing at least the following information:
- (1) An itemized list setting forth the nature and estimated amounts of expenses to be incurred by the managing underwriter in connection with the issuance of such bonds. Notwithstanding the foregoing, any such list may include an item for miscellaneous expenses, provided such item includes only minor items of expense which cannot be easily categorized elsewhere in the statement.
 - (2) The names, addresses, and estimated amounts of compensation of any finders connected with the issuance of the bonds.
 - (3) The amount of underwriting spread expected to be realized and the amount of fees and expenses expected to be paid to the financial adviser.
 - (4) Any management fee charged by the managing underwriter.
 - (5) Any other fee, bonus, or compensation estimated to be paid by the managing underwriter in connection with the bond issue to any person not regularly employed or retained by it.
 - (6) The name and address of each financial advisor or managing underwriter, if any, connected with the bond issue.
 - (7) Any other disclosure which the Corporation may require.
- (E) No underwriter, commercial bank, investment banker, or financial consultant or adviser shall pay any finder any bonus, fee, or gratuity in connection with the sale of bonds issued by the Corporation unless full disclosure is made in

writing to the Corporation prior to or concurrently with the submission of a purchase proposal for bonds by the underwriter, commercial bank, investment banker, or financial consultant or adviser, providing the name and address of any finder and the amount of bonus, fee, or gratuity paid to such finder.

- (F) As used in this Section, "finder" shall mean a person who is neither regularly employed by, nor a partner or officer of, an underwriter, bank, banker, or financial consultant or adviser and who enters into an understanding with either the issuer or the managing underwriter, or both, for any paid or promised compensation or valuable consideration, directly or indirectly, expressed or implied, to act solely as an intermediary between such issuer and managing underwriter for the purpose of influencing any transaction in the purchase of such bonds.
- (G) Nothing contained in this Section is intended to restrict or prohibit the employment of professional services relating to bonds issued under §627.351(6), Florida Statutes, or the issuance of any other bonds permitted to be issued by the Corporation.
- (H) The failure of the Corporation to comply with any provision of this Section shall not affect the validity of the bond issue; however, the failure of the Corporation to comply in good faith with this Section shall constitute a violation of this Plan and a violation of the Insurance Code.

SECTION 31

EFFECTIVE DATE

The Plan became effective August 1, 2002, upon approval by, and in accordance with, an Order of the Office of Insurance Regulation and upon approval by the Board (the "Effective Date").