A bill to be entitled

An act relating to insurance; creating s. 489.147, F.S.; providing definitions; prohibiting certain practices by contractors; providing for disciplinary proceedings; providing that the acts of any persons on behalf of a contractor are considered the acts of a contractor; providing that certain acts constitute unlicensed contracting; providing penalties; prohibiting a contractor from executing a contract with a residential property owner for a roofing repair or replacement unless certain notice is included; authorizing the residential property owner to void the contract within a specified timeframe when such notice is not included; amending s. 624.316, F.S.; authorizing the Office of Insurance Regulation to examine insurer affiliates; amending s. 624.318, F.S.; requiring insurer affiliates to provide certain items and information to the office during examination or investigation; amending s. 624.424, F.S.; requiring property insurers, effective a certain date, to include certain data regarding closed claims in their annual reports to the office; requiring the office to consider certain costs in determining whether payments made by an insurer to an affiliate are fair and reasonable; amending s. 626.7451, F.S; requiring

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managing general agents to enter into specified contracts with insurers even when the managing general agents control, or are controlled by, the insurers; amending s. 626.7452, F.S.; providing that a managing general agent may be examined as if it were the insurer even if the managing general agent solely represents a single domestic insurer; amending s. 626.854, F.S.; prohibiting certain acts by a public adjuster, public adjuster apprentice, and certain other persons; providing that certain acts constitute unlicensed practice of public adjusting; providing penalties; amending s. 627.351, F.S.; revising a procedure that the plan of operation of Citizens Property Insurance Corporation must provide; requiring the corporation to include the costs of catastrophe reinsurance to its projected 100-year probable maximum loss in its rate calculations even if the corporation does not purchase such reinsurance; deleting obsolete language relating to the corporation's rate filings; requiring the corporation to annually implement a rate increase that does not exceed a certain percent for specified years; requiring the corporation's budget allocations for salaries for the corporation's employees, all employee raises exceeding 10 percent, and an employee compensation plan for the corporation

to be approved by the corporation's board of governors; amending s. 627.3518, F.S.; conforming a cross-reference; amending s. 627.428,F.S.; providing that, for an award of attorney fees for a claim under a property insurance policy, the application of a contingency risk multiplier may be considered only if certain factors have been met; providing such factors; amending s. 627.7011, F.S.; requiring written acceptance of actual cash value coverage in a homeowner's policy; requiring a specific statement in a certain homeowner's policy; requiring notice of availability of certain coverage in a homeowner's policy; amending s. 627.70132, F.S.; revising the definitions of the terms "supplemental claim" and "reopened claim" to include all perils; providing that claims and reopened claims under certain property insurance policies for loss or damage caused by perils are barred unless notice is given within a specified timeframe; revising the timeframe for notice for loss or damage caused by windstorm or hurricane; providing date of loss for weather-related events; providing circumstances under which supplemental claims are not barred; providing construction; amending s. 627.7015, F.S.; conforming a provision to changes made by the act; creating s. 627.70152, F.S.; providing

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applicability; providing definitions; providing duties of a claimant; requiring written notice to be provided to an insurer before a suit is filed under an insurance policy; requiring certain information to be included in the notice; requiring notice to be served within specified time limits; requiring an insurer to provide a response to the notice within specified timeframe; providing for tolling of time if appropriate; requiring an insurer to investigate, review, and evaluate a dispute stated in the notice; requiring an insurer to investigate each claim in the notice in accordance with the Florida Insurance Code; requiring a court to dismiss without prejudice a claimant's suit under certain circumstances; providing for evidentiary requirements regarding the notice; prohibiting a court from awarding attorney fees to a claimant under certain circumstances; providing for attorney fees in certain circumstances; amending s. 628.801, F.S.; authorizing the office to request information from an insurer or its affiliates as reasonably necessary; authorizing the office to obtain staff to conduct examination at an insurer's expense; requiring insurers to pay examination expenses; giving the office the authority to examine all affiliates of an insurer as reasonably necessary to ascertain the

insurer's financial condition; prohibiting an examination of an insurer's affiliate from extending to specified investors under certain circumstances; providing an effective date.

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

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

489.147 Prohibited property insurance practices.—

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

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

(b) "Soliciting" means contacting:

1. In person;

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

3. By delivery to a specific person.

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

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

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

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

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

(c) Offering, delivering, receiving, or accepting any compensation, inducement, or reward, for the referral of any services for which property insurance proceeds are payable. Payment by the residential property owner or insurance company to a contractor for roofing services rendered does not constitute compensation for a referral.

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

(e) Providing an insured with an agreement authorizing repairs without providing a good faith estimate of the itemized and detailed cost of services and materials for repairs undertaken pursuant to a property insurance claim. A contractor does not violate this paragraph if, as a result of the process

of the insurer adjusting a claim, the actual cost of repairs differs from the initial estimate.

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

(4) For the purposes of this section:

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

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

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

Section 2. Paragraph (a) of subsection (2) of section 624.316, Florida Statutes, is amended to read:

624.316 Examination of insurers.—

(2)(a) Except as provided in paragraph (f), the office may examine each insurer, including affiliates, as often as may be warranted for the protection of the policyholders and in the public interest, and shall examine each domestic insurer not less frequently than once every 5 years. The examination shall cover the preceding 5 fiscal years of the insurer and shall be commenced within 12 months after the end of the most recent fiscal year being covered by the examination. The examination may cover any period of the insurer's operations since the last previous examination. The examination may include examination of events subsequent to the end of the most recent fiscal year and the events of any prior period that affect the present financial condition of the insurer.

Section 3. Subsection (2) of section 624.318, Florida Statutes, is amended to read:

624.318 Conduct of examination or investigation; access to records; correction of accounts; appraisals.—

(2) Every person, including an affiliate, being examined or investigated, and its officers, attorneys, employees, agents, and representatives, shall make freely available to the department or office or its examiners or investigators the accounts, records, documents, files, information, assets, and matters in their possession or control relating to the subject of the examination or investigation. An agent who provides other products or services or maintains customer information not

related to insurance must maintain records relating to insurance products and transactions separately if necessary to give the department or office access to such records. If records relating to the insurance transactions are maintained by an agent on premises owned or operated by a third party, the agent and the third party must provide access to the records by the department or office.

Section 4. Subsection (11) of section 624.424, Florida Statutes, is renumbered as subsection (12), and a new subsection (11) and subsection (13) are added to that section, to read:

624.424 Annual statement and other information.—

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

(a) The unique claim identification number.

(b) The type of policy.

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

(d) The county where the claim occurred.

(e) The date of loss.

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

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

2. The names of vendors used, if known.

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

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

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

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

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

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

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

(n) The total indemnity paid by the insurer.

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

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

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

(r) The contingency fee multiplier, if any, that the

claimant's attorney requested to be applied in calculating the attorney fees awarded to the claimant's attorney.

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

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

(13) Each insurer doing business in this state which pays a fee, commission, or other financial consideration or payment to any affiliate directly or indirectly is required upon request to provide to the office any information the office deems necessary. The fee, commission, or other financial consideration or payment to any affiliate must be fair and reasonable. In determining whether the fee, commission, or other financial consideration or payment is fair and reasonable, the office shall consider, among other things, the actual cost of the service being provided.

Section 5. Subsection (6) of section 626.7451, Florida Statutes, is amended to read:

626.7451 Managing general agents; required contract provisions.—No person acting in the capacity of a managing general agent shall place business with an insurer unless there is in force a written contract between the parties which sets forth the responsibility for a particular function, specifies

the division of responsibilities, and contains the following minimum provisions:

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

(a) The maximum annual premium volume.

(b) The basis of the rates to be charged.

(c) The types of risks which may be written.

(d) Maximum limits of liability.

(e) Applicable exclusions.

(f) Territorial limitations.

(g) Policy cancellation provisions.

(h) The maximum policy period.

~~This subsection shall not apply when the managing general agent is a controlled or controlling person.~~

For the purposes of this section and ss. 626.7453 and 626.7454, the term "controlling person" or "controlling" has the meaning set forth in s. 625.012(5)(b)1., and the term "controlled person" or "controlled" has the meaning set forth in s. 625.012(5)(b)2.

Section 6. Section 626.7452, Florida Statutes, is amended to read:

626.7452 Managing general agents; examination authority.—The acts of the managing general agent are considered to be the

acts of the insurer on whose behalf it is acting. A managing general agent may be examined as if it were the insurer ~~except in the case where the managing general agent solely represents a single domestic insurer~~.

Section 7. Subsection (15) is amended and subsection (20) is added to section 626.854, Florida Statutes, to read:

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

(15) A licensed contractor under part I of chapter 489, or a subcontractor of such licensee, may not advertise, solicit, offer to handle, handle, or perform public adjuster services as provided in s. 626.854(1) ~~adjust a claim on behalf of an insured~~ unless licensed and compliant as a public adjuster under this chapter. The prohibition against solicitation does not preclude a contractor from suggesting or otherwise recommending to a consumer that the consumer consider contacting his or her insurer to determine if the proposed repair is covered under the consumer's insurance policy except as it relates to solicitation prohibited in s. 489.147. In addition ~~However~~, the contractor may discuss or explain a bid for construction or repair of covered property with the residential property owner who has suffered loss or damage covered by a property insurance policy, or the insurer of such property, if the contractor is doing so

for the usual and customary fees applicable to the work to be performed as stated in the contract between the contractor and the insured.

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

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

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

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

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

(b) Notwithstanding the fine set forth in s. 626.8698, a public adjuster or public adjuster apprentice may be subject to a fine not to exceed $10,000 per act for a violation of this subsection.

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

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

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

Section 8. Paragraphs (c) and (n) of subsection (6) of section 627.351, Florida Statutes, are amended, and paragraph (jj) is added to subsection (6) of that section, to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(c) The corporation's plan of operation:

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

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

b. Basic personal lines policy forms that are policies similar to an HO-8 policy or a dwelling fire policy that provide

coverage meeting the requirements of the secondary mortgage market, but which is more limited than the coverage under a standard policy.

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

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

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

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

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

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

a. As used in this subsection, the term:

(I) "Quota share primary insurance" means an arrangement in which the primary hurricane coverage of an eligible risk is provided in specified percentages by the corporation and an authorized insurer. The corporation and authorized insurer are each solely responsible for a specified percentage of hurricane coverage of an eligible risk as set forth in a quota share primary insurance agreement between the corporation and an authorized insurer and the insurance contract. 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 agreement, may not be altered by the inability of the other party to pay its specified percentage of losses. Eligible risks that are provided hurricane coverage through a quota share primary insurance arrangement must be provided policy forms that set forth the obligations of the corporation and authorized insurer under the arrangement, clearly specify the percentages of quota share primary insurance provided by the corporation and authorized insurer, and

conspicuously and clearly state that the authorized insurer and the corporation may not be held responsible beyond their specified percentage of coverage of hurricane losses.

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

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

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

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

e. Any quota share primary insurance agreement entered into between an authorized insurer and the corporation is

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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.

f. 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 Florida Hurricane Catastrophe Fund. For all policies of eligible risks covered under such agreements, the corporation and the authorized insurer must maintain complete and accurate records for the purpose of exposure and loss reimbursement audits as required by fund rules. The corporation and the authorized insurer shall each maintain duplicate copies of policy declaration pages and supporting claims documents.

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

h. The quota share primary insurance agreement between the corporation and an authorized insurer must set forth the specific terms under which coverage is provided, including, but not limited to, the sale and servicing of policies issued under

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the agreement by the insurance agent of the authorized insurer producing the business, the reporting of information concerning eligible risks, the payment of premium to the corporation, and arrangements for the adjustment and payment of hurricane claims incurred on eligible risks by the claims adjuster and personnel of the authorized insurer. Entering into a quota sharing insurance agreement between the corporation and an authorized insurer is voluntary and at the discretion of the authorized insurer.

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

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

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

a. The Governor, the Chief Financial Officer, the

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

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

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

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

responsiveness to policyholders, applicants, and agents; and matters relating to depopulation.

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

a. Subject to s. 627.3517, with respect to personal lines residential risks, if the risk is offered coverage from an authorized insurer at the insurer's approved rate under a standard policy including wind coverage or, if consistent with the insurer's underwriting rules as filed with the office, a basic policy including wind coverage, for a new application to the corporation for coverage, the risk is not eligible for any policy issued by the corporation unless the premium for coverage from the authorized insurer is more than 20 ~~15~~ percent greater than the premium for comparable coverage from the corporation. Whenever an offer of coverage for a personal lines residential risk is received for a policyholder of the corporation at renewal from an authorized insurer, if the offer is equal to or less than the corporation's renewal premium for comparable coverage, the risk is not eligible for coverage with the corporation. If the risk is not able to obtain such offer, the risk is eligible for 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 is eligible for a basic policy including

wind coverage unless rejected under subparagraph 8. However, a policyholder removed from the corporation through an assumption agreement remains eligible for coverage from the corporation until the end of the assumption period. The corporation shall determine the type of policy to be provided on the basis of objective standards specified in the underwriting manual and based on generally accepted underwriting practices.

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

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

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

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

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

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

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

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

b. With respect to commercial lines residential risks, for a new application to the corporation for coverage, if the risk is offered coverage under a policy including wind coverage from an authorized insurer at its approved rate, the risk is not

eligible for a policy issued by the corporation unless the premium for coverage from the authorized insurer is more than 15 percent greater than the premium for comparable coverage from the corporation. Whenever an offer of coverage for a commercial lines residential risk is received for a policyholder of the corporation at renewal from an authorized insurer, if the offer is equal to or less than the corporation's renewal premium for comparable coverage, the risk is not eligible for coverage with the corporation. If the risk is not able to obtain any such offer, the risk is eligible for a policy including wind coverage issued by the corporation. However, a policyholder removed from the corporation through an assumption agreement remains eligible for coverage from the corporation until the end of the assumption period.

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

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

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

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

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

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

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

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

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

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

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

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

8. Must provide objective criteria and procedures to be uniformly applied to all applicants in determining whether an individual risk is so hazardous as to be uninsurable. In making

this determination and in establishing the criteria and procedures, the following must be considered:

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

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

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

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

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

subsection.

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

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

13. Must provide that, with respect to the coastal account, any assessable insurer with a surplus as to policyholders of $25 million or less writing 25 percent or more

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

14. Must provide that the corporation appoint as its licensed agents only those agents who throughout such appointments also hold an appointment as defined in s. 626.015 by an insurer who is authorized to write and is actually writing

or renewing personal lines residential property coverage, commercial residential property coverage, or commercial nonresidential property coverage within the state.

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

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

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

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

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

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

The corporation shall make available a policy for mobile homes

or manufactured homes for a minimum insured value of at least $3,000.

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

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

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

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

ACKNOWLEDGMENT OF POTENTIAL SURCHARGE
AND ASSESSMENT LIABILITY:

1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE

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

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

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

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

a. The corporation shall maintain, in electronic format or otherwise, a copy of the applicant's signed acknowledgment and provide a copy of the statement to the policyholder as part of

the first renewal after the effective date of this subparagraph.

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

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

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

3. After the public hurricane loss-projection model under s. 627.06281 has been found to be accurate and reliable by the Florida Commission on Hurricane Loss Projection Methodology, the model shall be considered when establishing the windstorm portion of the corporation's rates. The corporation may use the

public model results in combination with the results of private models to calculate rates for the windstorm portion of the corporation's rates. This subparagraph does not require or allow the corporation to adopt rates lower than the rates otherwise required or allowed by this paragraph.

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

4.~~5. Beginning on July 15, 2009, and annually thereafter,~~ The corporation must make a recommended actuarially sound rate filing for each personal and commercial line of business it writes~~, to be effective no earlier than January 1, 2010~~.

5.~~6. Beginning on or after January 1, 2010, and~~ Notwithstanding the board's recommended rates and the office's final order regarding the corporation's filed rates under subparagraph 1., the corporation shall annually implement a rate

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increase which, except for sinkhole coverage, does not exceed the following ~~10 percent~~ for any single policy issued by the corporation, excluding coverage changes and surcharges:

a. Eleven percent for 2022.

b. Twelve percent for 2023.

c. Thirteen percent for 2024.

d. Fourteen percent for 2025.

e. Fifteen percent for 2026 and all subsequent years.

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

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

(jj) The corporation's budget allocations for the compensation of all corporation employees and any proposed raise for an individual employee exceeding 10 percent of that employee's current salary must be approved by the board of governors. The corporation must have an overall employee compensation plan approved by the board of governors.

Section 9. Subsection (5) of section 627.3518, Florida

Statutes, is amended to read:

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

(5) Notwithstanding s. 627.3517, any applicant for new coverage from the corporation is not eligible for coverage from the corporation if provided an offer of coverage from an authorized insurer through the program at a premium that is at or below the eligibility threshold established in s. 627.351(6)(c)5.a. Whenever an offer of coverage for a personal lines risk is received for a policyholder of the corporation at renewal from an authorized insurer through the program, if the offer is equal to or less than the corporation's renewal premium for comparable coverage, the risk is not eligible for coverage with the corporation. In the event an offer of coverage for a new applicant is received from an authorized insurer through the program, and the premium offered exceeds the eligibility threshold contained in s. 627.351(6)(c)5.a., the applicant or insured may elect to accept such coverage, or may elect to accept or continue coverage with the corporation. In the event an offer of coverage for a personal lines risk is received from an authorized insurer at renewal through the program, and the premium offered is more than the corporation's renewal premium for comparable coverage, the insured may elect to accept such

coverage, or may elect to accept or continue coverage with the corporation. Section 627.351(6)(c)5.a.(I) does not apply to an offer of coverage from an authorized insurer obtained through the program. An applicant for coverage from the corporation who was declared ineligible for coverage at renewal by the corporation in the previous 36 months due to an offer of coverage pursuant to this subsection shall be considered a renewal under this section if the corporation determines that the authorized insurer making the offer of coverage pursuant to this subsection continues to insure the applicant and increased the rate on the policy in excess of the increase allowed for the corporation under s. 627.351(6)(n)5. ~~s. 627.351(6)(n)6.~~

Section 10. Subsection (4) is added to section 627.428, Florida Statutes, to read:

627.428 Attorney fees.—

(4) In an award of attorney fees under this section for a claim arising under a property insurance policy, upon the request of an insured a court may apply a contingency risk multiplier in rare and exceptional circumstances as determined by the court based on a written finding that at least one of the following factors has been met:

(a) The type of property insurance claim in dispute is complex in nature and uncommon in occurrence.

(b) The property insurer has denied that the insured is entitled to coverage for the claim that is in dispute.

(c) The insured cannot find competent counsel within a reasonable distance from the location of the property that is the subject of the claim. At a minimum, reasonable distance includes the counties contiguous to the county where the property that is the subject of the claim is located.

(d) The difference between the insurer's initial offer and the insured's initial demand for damages to settle the loss was at least $5,000 or at least 15 percent of the difference, whichever is greater, and the insured recovered more than the initial offer.

(e) The amount of damages that the insured recovered for the claim exceeded the insurer's initial offer by at least 200 percent.

Section 11. Paragraph (c) of subsection (4) of section 627.7011, Florida Statutes, is redesignated as paragraph (d), and a new paragraph (c) is added to that subsection, to read:

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

(4)

(c) An insurer that issues a homeowner's insurance policy or schedule providing that any loss that is repaired or replaced will be adjusted on the basis of actual cash value must:

1. Provide a policyholder with a form, approved by the office, that the policyholder must sign at the initial policy or schedule issuance, and must fully advise the policyholder of the

nature of the coverage being accepted if the policyholder chooses to purchase a policy providing actual cash value coverage. The signed form creates the conclusive presumption that there was an informed, knowing acceptance of actual cash value coverage and rejection of replacement cost coverage.

2. Include with the policy or schedule providing actual cash value coverage at the initial issuance and every renewal, in bold type no smaller than 18 points, the following statement:

"YOU ARE ELECTING TO PURCHASE COVERAGE ON YOUR HOME THAT PROVIDES THAT ANY LOSS THAT IS REPAIRED OR REPLACED WILL BE ADJUSTED ON THE BASIS OF ACTUAL CASH VALUE. THIS MEANS THAT DEPRECIATION IN THE VALUE OF YOUR LOST OR DAMAGED PROPERTY WILL BE CONSIDERED IN DETERMINING WHAT THE INSURER PAYS YOU FOR YOUR LOSS OR DAMAGE. BE ADVISED THIS MAY RESULT IN YOUR HAVING TO PAY SIGNIFICANT COSTS TO REPAIR OR REPLACE YOUR PROPERTY. PLEASE DISCUSS WITH YOUR INSURANCE AGENT."

3. At least once every 3 years, provide a policyholder who has a policy or schedule providing actual cash value coverage with notice, on a form approved by the office, that replacement cost coverage is available.

Section 12. Section 627.70132, Florida Statutes, is amended to read:

627.70132 Notice of property insurance ~~windstorm or~~

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~~hurricane~~ claim.—

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

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

(b) "Supplemental claim" means a claim for additional loss or damage from the same peril which the insurer has previously adjusted discovered while completing repairs or replacement pursuant to an open claim for which timely notice was previously provided to the insurer.

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

(3) For claims resulting from hurricanes, tornadoes, windstorms, severe rain, or other weather-related events that are tracked by weather services and media, the date of loss is the date that the hurricane made landfall, or the tornado,

windstorm, severe rain, or other weather-related event is verified by the National Oceanic and Atmospheric Administration or another disinterested verifiable third party to have occurred, in the location of the property that is the subject of the claim ~~For purposes of this section, the term "supplemental claim" or "reopened claim" means any additional claim for recovery from the insurer for losses from the same peril hurricane or windstorm which the insurer has previously adjusted pursuant to the initial claim~~.

(4) A supplemental claim is not barred as long as notice of that claim is given to the insurer while the claim to which the supplemental claim is related remains open.

(5) For the purposes of this section, a claim that an insurer has closed without providing an insured with the total amount due for the loss or damage is not considered a closed claim.

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

Section 13. Paragraph (e) of subsection (9) of section 627.7015, Florida Statutes, is amended to read:

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

(9) For purposes of this section, the term "claim" refers to any dispute between an insurer and a policyholder relating to

a material issue of fact other than a dispute:

(e) With respect to a ~~windstorm or hurricane~~ loss that does not comply with s. 627.70132.

Section 14. Section 627.70152, Florida Statutes, is created to read:

627.70152 Suits arising under a property insurance policy.—

(1) APPLICATION.—This section applies exclusively to all suits arising under a residential or commercial property insurance policy not brought by an assignee which is issued or renewed on or after July 1, 2021.

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

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

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

(c) "Judgment obtained" means damages recovered, if any, but does not include any amount awarded for attorney fees, costs, or interest.

(d) "Presuit settlement demand" means the demand made by the claimant in the written notice of intent to initiate litigation as required by paragraph (3)(e). The demand must

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include the amount of reasonable and necessary attorney fees and costs incurred by the claimant, to be calculated by multiplying the number of hours actually worked on the claim, by the claimant's attorney as of the date of the notice by a reasonable hourly rate.

(e) "Presuit settlement offer" means the offer made by the insurer in its written response to the notice as required by subsection (4).

(3) CLAIMANT DUTIES AND NOTICE.—A claimant must timely:

(a) Cooperate with the insurer in the claim investigation.

(b) Provide the insurer with requested records and documents related to any services that have been provided.

(c) Provide the insurer with accurate and up-to-date estimates of the scope of work needed to be performed, including supplemental or additional repairs, if required.

(d) Allow the insurer to inspect, photograph, or evaluate, in a reasonable manner and at a reasonable time, the property that is the subject of the claim.

(e) As a condition precedent to filing a suit under a property insurance policy, provide the department with written notice of intent to initiate litigation on a form provided by the department. Such notice must be given at least 10 business days before filing suit under the policy, but may not be given before the 90-day period under s. 627.70131 has expired or the insurer has denied coverage, whichever is earlier. Notice to the

insurer must be provided by the department to the e-mail address designated by the insurer under s. 624.422. The notice must state with specificity all of the following information:

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

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

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

4. If the notice is being provided to an insurer following a denial of coverage, the notice must also include an estimate of damages, if known.

5. If the notice is provided to an insurer following alleging an act or omission by the insurer other than denial of coverage, the notice must also include both of the following:

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

b. The disputed amount.

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

(f) Serve a notice of intent to initiate litigation within the time limits provided in s. 95.11. However, the notice is not required if the suit is a counterclaim. Service of a notice tolls the time limits provided in s. 95.11 for 10 business days

if such time limits will expire before the end of the 10-day notice period.

(4) INSURER DUTIES.—An insurer must have a procedure for the prompt investigation, review, and evaluation of the dispute stated in the notice and must investigate each claim contained in the notice in accordance with the Florida Insurance Code. An insurer must respond in writing within 10 business days after receiving the notice specified in subsection (3).

1. If an insurer is responding to a notice served on the insurer following a denial of coverage by the insurer, the insurer must respond by:

a. Accepting coverage;

b. Continuing to deny coverage; or

c. Asserting the right to reinspect the damaged property. If the insurer responds by asserting the right to reinspect the damaged property, it has 14 business days from the response asserting that right, to reinspect the property and accept or continue to deny coverage. If the insurer continues to deny coverage, the claimant may file suit without providing additional notice to the insurer.

2. If an insurer is responding to a notice provided to the insurer alleging an act or omission by the insurer other than a denial of coverage, the insurer must respond by making a settlement offer or requiring the claimant to participate in appraisal or another method of alternative dispute resolution.

The time limits provided in s. 95.11 are tolled as long as appraisal or other alternative dispute resolution is ongoing. However, if the appraisal or alternative dispute resolution has not been concluded within 90 days after the expiration of the 10-day notice of intent to initiate litigation specified in subsection (3), the claimant or claimant's attorney may immediately file suit without providing the insurer additional notice.

(5) DISMISSAL OF SUIT.—A court must dismiss without prejudice any claimant's suit relating to a claim for which a notice of intent to initiate litigation is given as required by this section if such suit is commenced before the expiration of the 10-day notice period.

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

(a) Are admissible as evidence in a civil suit or an alternative dispute resolution proceeding relating to the claim for which the notice is given.

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

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

(7) ATTORNEY FEES.—Notwithstanding any other provisions of law, in a suit arising under a residential or commercial

property insurance policy not brought by an assignee, attorney fees and costs may be recovered by a claimant only under s. 57.105, s. 627.428(4), and this section.

(a) If a court dismisses a claimant's suit pursuant to subsection (5), the court may not award to the claimant any incurred attorney fees for services rendered before the dismissal of the suit.

(b) The claimant is entitled to an award of reasonable attorney fees and costs as follows:

1. If the difference between the judgment obtained by the claimant and the presuit settlement offer, excluding reasonable attorney fees and costs, is less than 20 percent of the disputed amount, each party pays its own attorney fees and costs.

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

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

(8) SUPPLEMENTAL OR REOPENED CLAIMS.—The time frames for

giving notice of supplemental or reopened claims set forth in s. 627.70132 are tolled during litigation that is brought pursuant to this section.

Section 15. Subsection (3) of section 628.801, Florida Statutes, is amended to read:

628.801 Insurance holding companies; registration; regulation.—

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

(a) The office may require any insurer registered under this section to produce such records, books, or other information and papers in the possession of the insurer or its affiliates as are reasonably necessary.

(b) The office may retain at the registered insurer's expense such attorneys, actuaries, accountants and other experts not otherwise a part of the office's staff as shall be reasonably necessary to assist in the conduct of the examination under this subsection. Any persons so retained shall be under

the direction and control of the office and shall act in a purely advisory capacity.

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

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

Section 16. This act shall take effect July 1, 2021.