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1
2 An act relating to operations of the Citizens Property
3 Insurance Corporation; amending s. 627.351, F.S.;
4 specifying that a consumer representative appointed by
5 the Governor to the Citizens Property Insurance
6 Corporation's board of governors is not prohibited
7 from practicing in a certain profession if required or
8 permitted by law or ordinance; revising the
9 requirements for licensed agents of the corporation;
10 revising provisions related to the corporation's use
11 of certain public and private hurricane loss-
12 projection models in establishing certain rates;
13 revising a provision to permit specified information
14 from certain underwriting and claims files to be made
15 available to certain entities; providing limitations
16 for the use of such information by the entities;
17 requiring the take-out program to be revised for
18 specified purposes by a specified date; requiring the
19 corporation to publish a periodic schedule of cycles
20 during which an insurer may identify and submit policy
21 take-out requests; specifying information required to
22 be included in such requests; requiring the
23 corporation to maintain and make available to the
24 agent of record a specified list; requiring the
25 corporation to provide policyholders and the agents of
26 record with a specified notice regarding take-out



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27 | offers; providing an effective date.

28 |

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

30 |

31 | Section 1. Paragraphs (c), (n), and (x) of subsection
 32 | (6) of section 627.351, Florida Statutes, are amended, and
 33 | paragraph (ii) is added to that subsection, to read:

34 | 627.351 Insurance risk apportionment plans.—

35 | (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

36 | (c) The corporation's plan of operation:

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

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

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

51 | c. Commercial lines residential and nonresidential policy
 52 | forms that are generally similar to the basic perils of full



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53 coverage obtainable for commercial residential structures and
54 commercial nonresidential structures in the admitted voluntary
55 market.

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

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

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

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

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



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79 | a. As used in this subsection, the term:

80 | (I) "Quota share primary insurance" means an arrangement
81 | in which the primary hurricane coverage of an eligible risk is
82 | provided in specified percentages by the corporation and an
83 | authorized insurer. The corporation and authorized insurer are
84 | each solely responsible for a specified percentage of hurricane
85 | coverage of an eligible risk as set forth in a quota share
86 | primary insurance agreement between the corporation and an
87 | authorized insurer and the insurance contract. The
88 | responsibility of the corporation or authorized insurer to pay
89 | its specified percentage of hurricane losses of an eligible
90 | risk, as set forth in the agreement, may not be altered by the
91 | inability of the other party to pay its specified percentage of
92 | losses. Eligible risks that are provided hurricane coverage
93 | through a quota share primary insurance arrangement must be
94 | provided policy forms that set forth the obligations of the
95 | corporation and authorized insurer under the arrangement,
96 | clearly specify the percentages of quota share primary insurance
97 | provided by the corporation and authorized insurer, and
98 | conspicuously and clearly state that the authorized insurer and
99 | the corporation may not be held responsible beyond their
100 | specified percentage of coverage of hurricane losses.

101 | (II) "Eligible risks" means personal lines residential and
102 | commercial lines residential risks that meet the underwriting
103 | criteria of the corporation and are located in areas that were
104 | eligible for coverage by the Florida Windstorm Underwriting



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105 Association on January 1, 2002.

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

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

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

121 e. Any quota share primary insurance agreement entered
122 into between an authorized insurer and the corporation is
123 subject to review and approval by the office. However, such
124 agreement shall be authorized only as to insurance contracts
125 entered into between an authorized insurer and an insured who is
126 already insured by the corporation for wind coverage.

127 f. For all eligible risks covered under quota share
128 primary insurance agreements, the exposure and coverage levels
129 for both the corporation and authorized insurers shall be
130 reported by the corporation to the Florida Hurricane Catastrophe



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

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

144 h. The quota share primary insurance agreement between the
145 corporation and an authorized insurer must set forth the
146 specific terms under which coverage is provided, including, but
147 not limited to, the sale and servicing of policies issued under
148 the agreement by the insurance agent of the authorized insurer
149 producing the business, the reporting of information concerning
150 eligible risks, the payment of premium to the corporation, and
151 arrangements for the adjustment and payment of hurricane claims
152 incurred on eligible risks by the claims adjuster and personnel
153 of the authorized insurer. Entering into a quota sharing
154 insurance agreement between the corporation and an authorized
155 insurer is voluntary and at the discretion of the authorized
156 insurer.



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157 | 3. May provide that the corporation may employ or
158 | otherwise contract with individuals or other entities to provide
159 | administrative or professional services that may be appropriate
160 | to effectuate the plan. The corporation may borrow funds by
161 | issuing bonds or by incurring other indebtedness, and shall have
162 | other powers reasonably necessary to effectuate the requirements
163 | of this subsection, including, without limitation, the power to
164 | issue bonds and incur other indebtedness in order to refinance
165 | outstanding bonds or other indebtedness. The corporation may
166 | seek judicial validation of its bonds or other indebtedness
167 | under chapter 75. The corporation may issue bonds or incur other
168 | indebtedness, or have bonds issued on its behalf by a unit of
169 | local government pursuant to subparagraph (q)2. in the absence
170 | of a hurricane or other weather-related event, upon a
171 | determination by the corporation, subject to approval by the
172 | office, that such action would enable it to efficiently meet the
173 | financial obligations of the corporation and that such
174 | financings are reasonably necessary to effectuate the
175 | requirements of this subsection. The corporation may take all
176 | actions needed to facilitate tax-free status for such bonds or
177 | indebtedness, including formation of trusts or other affiliated
178 | entities. The corporation may pledge assessments, projected
179 | recoveries from the Florida Hurricane Catastrophe Fund, other
180 | reinsurance recoverables, policyholder surcharges and other
181 | surcharges, and other funds available to the corporation as
182 | security for bonds or other indebtedness. In recognition of s.



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183 10, Art. I of the State Constitution, prohibiting the impairment
184 of obligations of contracts, it is the intent of the Legislature
185 that no action be taken whose purpose is to impair any bond
186 indenture or financing agreement or any revenue source committed
187 by contract to such bond or other indebtedness.

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

197 a. The Governor, the Chief Financial Officer, the
198 President of the Senate, and the Speaker of the House of
199 Representatives shall each appoint two members of the board. At
200 least one of the two members appointed by each appointing
201 officer must have demonstrated expertise in insurance and be
202 deemed to be within the scope of the exemption provided in s.
203 112.313(7)(b). The Chief Financial Officer shall designate one
204 of the appointees as chair. All board members serve at the
205 pleasure of the appointing officer. All members of the board are
206 subject to removal at will by the officers who appointed them.
207 All board members, including the chair, must be appointed to
208 serve for 3-year terms beginning annually on a date designated



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209 by the plan. However, for the first term beginning on or after
210 July 1, 2009, each appointing officer shall appoint one member
211 of the board for a 2-year term and one member for a 3-year term.
212 A board vacancy shall be filled for the unexpired term by the
213 appointing officer. The Chief Financial Officer shall appoint a
214 technical advisory group to provide information and advice to
215 the board in connection with the board's duties under this
216 subsection. The executive director and senior managers of the
217 corporation shall be engaged by the board and serve at the
218 pleasure of the board. Any executive director appointed on or
219 after July 1, 2006, is subject to confirmation by the Senate.
220 The executive director is responsible for employing other staff
221 as the corporation may require, subject to review and
222 concurrence by the board.

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

228 (I) The members of the advisory committee consist of the
229 following 11 persons, one of whom must be elected chair by the
230 members of the committee: four representatives, one appointed by
231 the Florida Association of Insurance Agents, one by the Florida
232 Association of Insurance and Financial Advisors, one by the
233 Professional Insurance Agents of Florida, and one by the Latin
234 American Association of Insurance Agencies; three



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235 representatives appointed by the insurers with the three highest
236 voluntary market share of residential property insurance
237 business in the state; one representative from the Office of
238 Insurance Regulation; one consumer appointed by the board who is
239 insured by the corporation at the time of appointment to the
240 committee; one representative appointed by the Florida
241 Association of Realtors; and one representative appointed by the
242 Florida Bankers Association. All members shall be appointed to
243 3-year terms and may serve for consecutive terms.

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

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

252 a. Subject to s. 627.3517, with respect to personal lines
253 residential risks, if the risk is offered coverage from an
254 authorized insurer at the insurer's approved rate under a
255 standard policy including wind coverage or, if consistent with
256 the insurer's underwriting rules as filed with the office, a
257 basic policy including wind coverage, for a new application to
258 the corporation for coverage, the risk is not eligible for any
259 policy issued by the corporation unless the premium for coverage
260 from the authorized insurer is more than 15 percent greater than



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261 the premium for comparable coverage from the corporation.
262 Whenever an offer of coverage for a personal lines residential
263 risk is received for a policyholder of the corporation at
264 renewal from an authorized insurer, if the offer is equal to or
265 less than the corporation's renewal premium for comparable
266 coverage, the risk is not eligible for coverage with the
267 corporation. If the risk is not able to obtain such offer, the
268 risk is eligible for a standard policy including wind coverage
269 or a basic policy including wind coverage issued by the
270 corporation; however, if the risk could not be insured under a
271 standard policy including wind coverage regardless of market
272 conditions, the risk is eligible for a basic policy including
273 wind coverage unless rejected under subparagraph 8. However, a
274 policyholder removed from the corporation through an assumption
275 agreement remains eligible for coverage from the corporation
276 until the end of the assumption period. The corporation shall
277 determine the type of policy to be provided on the basis of
278 objective standards specified in the underwriting manual and
279 based on generally accepted underwriting practices.

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



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287 insurer shall:

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

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

298
 299 If the producing agent is unwilling or unable to accept
 300 appointment, the new insurer shall pay the agent in accordance
 301 with sub-sub-sub-subparagraph (A).

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

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

311 (B) Offer to allow the producing agent of record to
 312 continue servicing the policy for at least 1 year and offer to



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313 | pay the agent the greater of the insurer's or the corporation's
314 | usual and customary commission for the type of policy written.

315 |
316 | If the producing agent is unwilling or unable to accept
317 | appointment, the new insurer shall pay the agent in accordance
318 | with sub-sub-sub-subparagraph (A).

319 | b. With respect to commercial lines residential risks, for
320 | a new application to the corporation for coverage, if the risk
321 | is offered coverage under a policy including wind coverage from
322 | an authorized insurer at its approved rate, the risk is not
323 | eligible for a policy issued by the corporation unless the
324 | premium for coverage from the authorized insurer is more than 15
325 | percent greater than the premium for comparable coverage from
326 | the corporation. Whenever an offer of coverage for a commercial
327 | lines residential risk is received for a policyholder of the
328 | corporation at renewal from an authorized insurer, if the offer
329 | is equal to or less than the corporation's renewal premium for
330 | comparable coverage, the risk is not eligible for coverage with
331 | the corporation. If the risk is not able to obtain any such
332 | offer, the risk is eligible for a policy including wind coverage
333 | issued by the corporation. However, a policyholder removed from
334 | the corporation through an assumption agreement remains eligible
335 | for coverage from the corporation until the end of the
336 | assumption period.

337 | (I) If the risk accepts an offer of coverage through the
338 | market assistance plan or through a mechanism established by the



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339 corporation other than a plan established by s. 627.3518, before
340 a policy is issued to the risk by the corporation or during the
341 first 30 days of coverage by the corporation, and the producing
342 agent who submitted the application to the plan or the
343 corporation is not currently appointed by the insurer, the
344 insurer shall:

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

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

355
356 If the producing agent is unwilling or unable to accept
357 appointment, the new insurer shall pay the agent in accordance
358 with sub-sub-sub-subparagraph (A).

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

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



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

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

372 |

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

376 | c. For purposes of determining comparable coverage under
377 | sub-subparagraphs a. and b., the comparison must be based on
378 | those forms and coverages that are reasonably comparable. The
379 | corporation may rely on a determination of comparable coverage
380 | and premium made by the producing agent who submits the
381 | application to the corporation, made in the agent's capacity as
382 | the corporation's agent. A comparison may be made solely of the
383 | premium with respect to the main building or structure only on
384 | the following basis: the same coverage A or other building
385 | limits; the same percentage hurricane deductible that applies on
386 | an annual basis or that applies to each hurricane for commercial
387 | residential property; the same percentage of ordinance and law
388 | coverage, if the same limit is offered by both the corporation
389 | and the authorized insurer; the same mitigation credits, to the
390 | extent the same types of credits are offered both by the



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391 corporation and the authorized insurer; the same method for loss
392 payment, such as replacement cost or actual cash value, if the
393 same method is offered both by the corporation and the
394 authorized insurer in accordance with underwriting rules; and
395 any other form or coverage that is reasonably comparable as
396 determined by the board. If an application is submitted to the
397 corporation for wind-only coverage in the coastal account, the
398 premium for the corporation's wind-only policy plus the premium
399 for the ex-wind policy that is offered by an authorized insurer
400 to the applicant must be compared to the premium for multiperil
401 coverage offered by an authorized insurer, subject to the
402 standards for comparison specified in this subparagraph. If the
403 corporation or the applicant requests from the authorized
404 insurer a breakdown of the premium of the offer by types of
405 coverage so that a comparison may be made by the corporation or
406 its agent and the authorized insurer refuses or is unable to
407 provide such information, the corporation may treat the offer as
408 not being an offer of coverage from an authorized insurer at the
409 insurer's approved rate.

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

412 7. Must provide that if premium and investment income for
413 an account attributable to a particular calendar year are in
414 excess of projected losses and expenses for the account
415 attributable to that year, such excess shall be held in surplus
416 in the account. Such surplus must be available to defray



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417 | deficits in that account as to future years and used for that
418 | purpose before assessing assessable insurers and assessable
419 | insureds as to any calendar year.

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

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

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

430 |

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

434 | 9. Must provide that the corporation make its best efforts
435 | to procure catastrophe reinsurance at reasonable rates, to cover
436 | its projected 100-year probable maximum loss as determined by
437 | the board of governors.

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



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443 subsection.

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

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

465 13. Must provide that, with respect to the coastal
466 account, any assessable insurer with a surplus as to
467 policyholders of \$25 million or less writing 25 percent or more
468 of its total countrywide property insurance premiums in this



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469 state may petition the office, within the first 90 days of each
470 calendar year, to qualify as a limited apportionment company. A
471 regular assessment levied by the corporation on a limited
472 apportionment company for a deficit incurred by the corporation
473 for the coastal account may be paid to the corporation on a
474 monthly basis as the assessments are collected by the limited
475 apportionment company from its insureds, but a limited
476 apportionment company must begin collecting the regular
477 assessments not later than 90 days after the regular assessments
478 are levied by the corporation, and the regular assessments must
479 be paid in full within 15 months after being levied by the
480 corporation. A limited apportionment company shall collect from
481 its policyholders any emergency assessment imposed under sub-
482 subparagraph (b)3.d. The plan must provide that, if the office
483 determines that any regular assessment will result in an
484 impairment of the surplus of a limited apportionment company,
485 the office may direct that all or part of such assessment be
486 deferred as provided in subparagraph (q)4. However, an emergency
487 assessment to be collected from policyholders under sub-
488 subparagraph (b)3.d. may not be limited or deferred.

489 14. Must provide that the corporation appoint as its
490 licensed agents only those agents who throughout such
491 appointments also hold an appointment as defined in s.
492 626.015(3) by ~~with~~ an insurer who ~~at the time of the agent's~~
493 ~~initial appointment by the corporation~~ is authorized to write
494 and is actually writing or renewing personal lines residential



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495 | property coverage, commercial residential property coverage, or
496 | commercial nonresidential property coverage within the state.

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

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

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

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

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

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

517 |
518 | The corporation shall make available a policy for mobile homes
519 | or manufactured homes for a minimum insured value of at least
520 | \$3,000.



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

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

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

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

539 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE

540 AND ASSESSMENT LIABILITY:

541 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
542 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
543 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
544 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
545 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE
546 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT



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547 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
548 LEGISLATURE.

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

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

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

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

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

571 (n)1. Rates for coverage provided by the corporation must
572 be actuarially sound and subject to s. 627.062, except as



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573 otherwise provided in this paragraph. The corporation shall file
574 its recommended rates with the office at least annually. The
575 corporation shall provide any additional information regarding
576 the rates which the office requires. The office shall consider
577 the recommendations of the board and issue a final order
578 establishing the rates for the corporation within 45 days after
579 the recommended rates are filed. The corporation may not pursue
580 an administrative challenge or judicial review of the final
581 order of the office.

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

586 3. After the public hurricane loss-projection model under
587 s. 627.06281 has been found to be accurate and reliable by the
588 Florida Commission on Hurricane Loss Projection Methodology, the
589 model shall be considered when establishing ~~serve as the minimum~~
590 ~~benchmark for determining~~ the windstorm portion of the
591 corporation's rates. The corporation may use the public model
592 results in combination with the results of private models to
593 calculate rates for the windstorm portion of the corporation's
594 rates. This subparagraph does not require or allow the
595 corporation to adopt rates lower than the rates otherwise
596 required or allowed by this paragraph.

597 4. The rate filings for the corporation which were
598 approved by the office and took effect January 1, 2007, are



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599 rescinded, except for those rates that were lowered. As soon as
600 possible, the corporation shall begin using the lower rates that
601 were in effect on December 31, 2006, and provide refunds to
602 policyholders who paid higher rates as a result of that rate
603 filing. The rates in effect on December 31, 2006, remain in
604 effect for the 2007 and 2008 calendar years except for any rate
605 change that results in a lower rate. The next rate change that
606 may increase rates shall take effect pursuant to a new rate
607 filing recommended by the corporation and established by the
608 office, subject to this paragraph.

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

613 6. Beginning on or after January 1, 2010, and
614 notwithstanding the board's recommended rates and the office's
615 final order regarding the corporation's filed rates under
616 subparagraph 1., the corporation shall annually implement a rate
617 increase which, except for sinkhole coverage, does not exceed 10
618 percent for any single policy issued by the corporation,
619 excluding coverage changes and surcharges.

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

623 8. The corporation's implementation of rates as prescribed
624 in subparagraph 6. shall cease for any line of business written



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625 | by the corporation upon the corporation's implementation of
626 | actuarially sound rates. Thereafter, the corporation shall
627 | annually make a recommended actuarially sound rate filing for
628 | each commercial and personal line of business the corporation
629 | writes.

630 | (x)1. The following records of the corporation are
631 | confidential and exempt from the provisions of s. 119.07(1) and
632 | s. 24(a), Art. I of the State Constitution:

633 | a. Underwriting files, except that a policyholder or an
634 | applicant shall have access to his or her own underwriting
635 | files. Confidential and exempt underwriting file records may
636 | also be released to other governmental agencies upon written
637 | request and demonstration of need; such records held by the
638 | receiving agency remain confidential and exempt as provided
639 | herein.

640 | b. Claims files, until termination of all litigation and
641 | settlement of all claims arising out of the same incident,
642 | although portions of the claims files may remain exempt, as
643 | otherwise provided by law. Confidential and exempt claims file
644 | records may be released to other governmental agencies upon
645 | written request and demonstration of need; such records held by
646 | the receiving agency remain confidential and exempt as provided
647 | herein.

648 | c. Records obtained or generated by an internal auditor
649 | pursuant to a routine audit, until the audit is completed, or if
650 | the audit is conducted as part of an investigation, until the



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651 investigation is closed or ceases to be active. An investigation
652 is considered "active" while the investigation is being
653 conducted with a reasonable, good faith belief that it could
654 lead to the filing of administrative, civil, or criminal
655 proceedings.

656 d. Matters reasonably encompassed in privileged attorney-
657 client communications.

658 e. Proprietary information licensed to the corporation
659 under contract and the contract provides for the confidentiality
660 of such proprietary information.

661 f. All information relating to the medical condition or
662 medical status of a corporation employee which is not relevant
663 to the employee's capacity to perform his or her duties, except
664 as otherwise provided in this paragraph. Information that is
665 exempt shall include, but is not limited to, information
666 relating to workers' compensation, insurance benefits, and
667 retirement or disability benefits.

668 g. Upon an employee's entrance into the employee
669 assistance program, a program to assist any employee who has a
670 behavioral or medical disorder, substance abuse problem, or
671 emotional difficulty that ~~which~~ affects the employee's job
672 performance, all records relative to that participation shall be
673 confidential and exempt from the provisions of s. 119.07(1) and
674 s. 24(a), Art. I of the State Constitution, except as otherwise
675 provided in s. 112.0455(11).

676 h. Information relating to negotiations for financing,



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677 reinsurance, depopulation, or contractual services, until the
678 conclusion of the negotiations.

679 i. Minutes of closed meetings regarding underwriting
680 files, and minutes of closed meetings regarding an open claims
681 file until termination of all litigation and settlement of all
682 claims with regard to that claim, except that information
683 otherwise confidential or exempt by law shall be redacted.

684 2. If an authorized insurer is considering underwriting a
685 risk insured by the corporation, relevant underwriting files and
686 confidential claims files may be released to the insurer
687 provided the insurer agrees in writing, notarized and under
688 oath, to maintain the confidentiality of such files. If a file
689 is transferred to an insurer, that file is no longer a public
690 record because it is not held by an agency subject to the
691 provisions of the public records law. Underwriting files and
692 confidential claims files may also be released to staff and the
693 board of governors of the market assistance plan established
694 pursuant to s. 627.3515, who must retain the confidentiality of
695 such files, except such files may be released to authorized
696 insurers that are considering assuming the risks to which the
697 files apply, provided the insurer agrees in writing, notarized
698 and under oath, to maintain the confidentiality of such files.
699 Finally, the corporation or the board or staff of the market
700 assistance plan may make the following information obtained from
701 underwriting files and confidential claims files available to an
702 entity that has obtained a permit to become an authorized



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703 insurer, a reinsurer that may provide reinsurance under s.
704 624.610, a licensed reinsurance broker, a licensed rating
705 organization, a modeling company, or a licensed general lines
706 insurance agent ~~agents~~: name, address, and telephone number of
707 the residential property owner or insured; location of the risk;
708 rating information; loss history; and policy type. The receiving
709 person ~~licensed general lines insurance agent~~ must retain the
710 confidentiality of the information received and may use the
711 information only for the purposes of developing a take-out plan
712 or a rating plan to be submitted to the office for approval or
713 otherwise analyzing the underwriting of a risk or risks insured
714 by the corporation on behalf of the private insurance market. A
715 licensed general lines insurance agent may not use such
716 information for the direct solicitation of policyholders.

717 3. A policyholder who has filed suit against the
718 corporation has the right to discover the contents of his or her
719 own claims file to the same extent that discovery of such
720 contents would be available from a private insurer in litigation
721 as provided by the Florida Rules of Civil Procedure, the Florida
722 Evidence Code, and other applicable law. Pursuant to subpoena, a
723 third party has the right to discover the contents of an
724 insured's or applicant's underwriting or claims file to the same
725 extent that discovery of such contents would be available from a
726 private insurer by subpoena as provided by the Florida Rules of
727 Civil Procedure, the Florida Evidence Code, and other applicable
728 law, and subject to any confidentiality protections requested by



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729 the corporation and agreed to by the seeking party or ordered by
730 the court. The corporation may release confidential underwriting
731 and claims file contents and information as it deems necessary
732 and appropriate to underwrite or service insurance policies and
733 claims, subject to any confidentiality protections deemed
734 necessary and appropriate by the corporation.

735 4. Portions of meetings of the corporation are exempt from
736 the provisions of s. 286.011 and s. 24(b), Art. I of the State
737 Constitution wherein confidential underwriting files or
738 confidential open claims files are discussed. All portions of
739 corporation meetings which are closed to the public shall be
740 recorded by a court reporter. The court reporter shall record
741 the times of commencement and termination of the meeting, all
742 discussion and proceedings, the names of all persons present at
743 any time, and the names of all persons speaking. No portion of
744 any closed meeting shall be off the record. Subject to the
745 provisions hereof and s. 119.07(1)(d)-(f), the court reporter's
746 notes of any closed meeting shall be retained by the corporation
747 for a minimum of 5 years. A copy of the transcript, less any
748 exempt matters, of any closed meeting wherein claims are
749 discussed shall become public as to individual claims after
750 settlement of the claim.

751 (ii) The corporation shall revise the programs adopted
752 pursuant to sub-subparagraph (q)3.a. for personal lines
753 residential policies to maximize policyholder options and
754 encourage increased participation by insurers and agents. After



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755 January 1, 2017, a policy may not be taken out of the
756 corporation unless the provisions of this paragraph are met.

757 1. The corporation must publish a periodic schedule of
758 cycles during which an insurer may identify, and notify the
759 corporation of, policies that the insurer is requesting to take
760 out. A request must include a description of the coverage
761 offered and an estimated premium and must be submitted to the
762 corporation in a form and manner prescribed by the corporation.

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

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

775 a. The amount of the estimated premium;

776 b. A description of the coverage; and

777 c. A comparison of the estimated premium and coverage
778 offered by the insurer to the estimated premium and coverage
779 provided by the corporation.

780 Section 2. This act shall take effect July 1, 2016.