

1                                   A bill to be entitled  
 2       An act relating to Citizens Property Insurance  
 3       Corporation; amending s. 627.351, F.S.; revising  
 4       legislative intent; requiring that the corporation achieve  
 5       actuarially sound rates on or before a specified date;  
 6       requiring that the corporation take certain actions to  
 7       achieve actuarially sound rates; providing requirements  
 8       for the determination of actuarially sound rates;  
 9       requiring that the corporation file a plan of withdrawal  
 10      on or before a specified date if it does not achieve  
 11      actuarially sound rates by a specified deadline;  
 12      establishing criteria for actuarially sound rates;  
 13      prohibiting the Office of Insurance Regulation from having  
 14      authority with respect to the corporation's rates;  
 15      authorizing a policyholder to challenge his or her premium  
 16      in accordance with specified provisions of state law;  
 17      prohibiting a challenge to the rates of the corporation;  
 18      amending s. 624.430, F.S.; prohibiting the Office of  
 19      Insurance Regulation from denying the corporation's plan  
 20      of withdrawal; providing an effective date.

21  
 22   Be It Enacted by the Legislature of the State of Florida:

23  
 24           Section 1. Paragraphs (a) and (n) of subsection (6) of  
 25   section 627.351, Florida Statutes, are amended to read:  
 26           627.351 Insurance risk apportionment plans.—  
 27           (6) CITIZENS PROPERTY INSURANCE CORPORATION.—  
 28           (a)1. It is the public purpose of this subsection to

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29 | ensure the existence of an orderly market for property insurance  
30 | for Floridians and Florida businesses. ~~The Legislature finds~~  
31 | ~~that private insurers are unwilling or unable to provide~~  
32 | ~~affordable property insurance coverage in this state to the~~  
33 | ~~extent sought and needed. The absence of affordable property~~  
34 | ~~insurance threatens the public health, safety, and welfare and~~  
35 | ~~likewise threatens the economic health of the state. The state~~  
36 | therefore has a compelling public interest and a public purpose  
37 | to assist in assuring that property in the state is insured and  
38 | ~~that it is insured at affordable rates so as to facilitate the~~  
39 | remediation, reconstruction, and replacement of damaged or  
40 | destroyed property in order to reduce or avoid the negative  
41 | effects otherwise resulting to the public health, safety, and  
42 | welfare, to the economy of the state, and to the revenues of the  
43 | state and local governments which are needed to provide for the  
44 | public welfare. It is necessary, therefore, to allow the  
45 | Citizens Property Insurance Corporation to be restored to its  
46 | prior status as an insurer of last resort and to allow the  
47 | corporation to develop actuarially sound rates over a period of  
48 | time so that it can pay claims promptly and fulfill its  
49 | statutory obligations. To that end, Citizens Property Insurance  
50 | Corporation shall achieve actuarially sound rates within the  
51 | time period specified in this subsection or must file a plan to  
52 | withdraw from the state pursuant to the requirements in s.  
53 | 624.430 ~~provide affordable property insurance to applicants who~~  
54 | ~~are in good faith entitled to procure insurance through the~~  
55 | ~~voluntary market but are unable to do so. The Legislature~~  
56 | ~~intends by this subsection that affordable property insurance be~~

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57 ~~provided and that it continue to be provided, as long as~~  
58 ~~necessary, through Citizens Property Insurance Corporation, a~~  
59 ~~government entity that is an integral part of the state, and~~  
60 ~~that is not a private insurance company. To that end, Citizens~~  
61 ~~Property Insurance Corporation shall strive to increase the~~  
62 ~~availability of affordable property insurance in this state,~~  
63 ~~while achieving efficiencies and economies, and while providing~~  
64 ~~service to policyholders, applicants, and agents which is no~~  
65 ~~less than the quality generally provided in the voluntary~~  
66 ~~market, for the achievement of the foregoing public purposes.~~  
67 Because it is essential for this government entity to have the  
68 maximum financial resources to pay claims following a  
69 catastrophic hurricane, it is the intent of the Legislature that  
70 Citizens Property Insurance Corporation be allowed to achieve  
71 actuarially sound rates so that it can continue to be an  
72 integral part of the state and that the income of the  
73 corporation be exempt from federal income taxation and that  
74 interest on the debt obligations issued by the corporation be  
75 exempt from federal income taxation.

76 2. The Residential Property and Casualty Joint  
77 Underwriting Association originally created by this statute  
78 shall be known, as of July 1, 2002, as the Citizens Property  
79 Insurance Corporation. The corporation shall provide insurance  
80 for residential and commercial property, for applicants who are  
81 in good faith entitled, but are unable, to procure insurance  
82 through the voluntary market. The corporation shall operate  
83 pursuant to a plan of operation approved by order of the  
84 Financial Services Commission. The plan is subject to continuous

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85 review by the commission. The commission may, by order, withdraw  
86 approval of all or part of a plan if the commission determines  
87 that conditions have changed since approval was granted and that  
88 the purposes of the plan require changes in the plan. The  
89 corporation shall continue to operate pursuant to the plan of  
90 operation approved by the Office of Insurance Regulation until  
91 October 1, 2006. For the purposes of this subsection,  
92 residential coverage includes both personal lines residential  
93 coverage, which consists of the type of coverage provided by  
94 homeowner's, mobile home owner's, dwelling, tenant's,  
95 condominium unit owner's, and similar policies, and commercial  
96 lines residential coverage, which consists of the type of  
97 coverage provided by condominium association, apartment  
98 building, and similar policies.

99 3. Effective January 1, 2009, a personal lines residential  
100 structure that has a dwelling replacement cost of \$2 million or  
101 more, or a single condominium unit that has a combined dwelling  
102 and content replacement cost of \$2 million or more is not  
103 eligible for coverage by the corporation. Such dwellings insured  
104 by the corporation on December 31, 2008, may continue to be  
105 covered by the corporation until the end of the policy term.  
106 However, such dwellings that are insured by the corporation and  
107 become ineligible for coverage due to the provisions of this  
108 subparagraph may reapply and obtain coverage if the property  
109 owner provides the corporation with a sworn affidavit from one  
110 or more insurance agents, on a form provided by the corporation,  
111 stating that the agents have made their best efforts to obtain  
112 coverage and that the property has been rejected for coverage by

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113 at least one authorized insurer and at least three surplus lines  
114 insurers. If such conditions are met, the dwelling may be  
115 insured by the corporation for up to 3 years, after which time  
116 the dwelling is ineligible for coverage. The office shall  
117 approve the method used by the corporation for valuing the  
118 dwelling replacement cost for the purposes of this subparagraph.  
119 If a policyholder is insured by the corporation prior to being  
120 determined to be ineligible pursuant to this subparagraph and  
121 such policyholder files a lawsuit challenging the determination,  
122 the policyholder may remain insured by the corporation until the  
123 conclusion of the litigation.

124 4. It is the intent of the Legislature that policyholders,  
125 applicants, and agents of the corporation receive service and  
126 treatment of the highest possible level but never less than that  
127 generally provided in the voluntary market. It also is intended  
128 that the corporation be held to service standards no less than  
129 those applied to insurers in the voluntary market by the office  
130 with respect to responsiveness, timeliness, customer courtesy,  
131 and overall dealings with policyholders, applicants, or agents  
132 of the corporation.

133 5. Effective January 1, 2009, a personal lines residential  
134 structure that is located in the "wind-borne debris region," as  
135 defined in s. 1609.2, International Building Code (2006), and  
136 that has an insured value on the structure of \$750,000 or more  
137 is not eligible for coverage by the corporation unless the  
138 structure has opening protections as required under the Florida  
139 Building Code for a newly constructed residential structure in  
140 that area. A residential structure shall be deemed to comply

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141 with the requirements of this subparagraph if it has shutters or  
142 opening protections on all openings and if such opening  
143 protections complied with the Florida Building Code at the time  
144 they were installed.

145 (n)1. As of January 1, 2016, the rates of the corporation  
146 shall be actuarially sound as provided in this paragraph. If the  
147 corporation does not achieve actuarially sound rates on or  
148 before January 1, 2016, it must file a plan of withdrawal  
149 pursuant to s. 624.430 by July 1, 2016.

150 2. In order to achieve actuarially sound rates by January  
151 1, 2016, the corporation shall phase in rate changes over a 5-  
152 year period beginning January 1, 2011, such that the gap between  
153 the then-current rates and the rates required to achieve  
154 actuarial soundness decreases by approximately 20 percent each  
155 year over the 5-year period. During the 5-year period, rate  
156 decreases are permitted to the extent that they are actuarially  
157 sound and phased in during that period.

158 3. In determining the actuarial soundness of its rates,  
159 the corporation:

160 a. May consider the applicable generally accepted and  
161 reasonable actuarial techniques as enumerated in s.  
162 627.062(2)(b)1., 2., 4., 5., 7., 9., 10., 11., 12., and 14.,  
163 (e)1., 3., 4., 5., and 6., (j), and (5).

164 b. Shall include in its rates the following factors for  
165 the cost of reinsurance to cover its projected 100-year probable  
166 maximum loss:

167 (I) The actual cost of reinsurance purchased from the  
168 Florida Hurricane Catastrophe Fund or in the private reinsurance

169 market; and

170 (II) The presumed cost of reinsurance not purchased which  
 171 reflects the market value of future corporation assessments  
 172 against corporation and noncorporation policyholders.

173 c. May use one or more models found to be accurate and  
 174 reliable by the Florida Commission on Hurricane Loss Projection  
 175 Methodology.

176 4. The office shall have no authority with respect to the  
 177 rates of the corporation.

178 5. A policyholder may challenge his or her premium as  
 179 provided in s. 627.371. The rates of the corporation may not be  
 180 challenged. Rates for coverage provided by the corporation shall  
 181 be actuarially sound and subject to the requirements of s.  
 182 627.062, except as otherwise provided in this paragraph. The  
 183 corporation shall file its recommended rates with the office at  
 184 least annually. The corporation shall provide any additional  
 185 information regarding the rates which the office requires. The  
 186 office shall consider the recommendations of the board and issue  
 187 a final order establishing the rates for the corporation within  
 188 45 days after the recommended rates are filed. The corporation  
 189 may not pursue an administrative challenge or judicial review of  
 190 the final order of the office.

191 6.2. In addition to the rates otherwise determined  
 192 pursuant to this paragraph, the corporation shall impose and  
 193 collect an amount equal to the premium tax provided for in s.  
 194 624.509 to augment the financial resources of the corporation.

195 ~~3. After the public hurricane loss projection model under~~  
 196 ~~s. 627.06281 has been found to be accurate and reliable by the~~

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197 ~~Florida Commission on Hurricane Loss Projection Methodology,~~  
198 ~~that model shall serve as the minimum benchmark for determining~~  
199 ~~the windstorm portion of the corporation's rates. This~~  
200 ~~subparagraph does not require or allow the corporation to adopt~~  
201 ~~rates lower than the rates otherwise required or allowed by this~~  
202 ~~paragraph.~~

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

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

220 ~~6. Beginning on or after January 1, 2010, and~~  
221 ~~notwithstanding the board's recommended rates and the office's~~  
222 ~~final order regarding the corporation's filed rates under~~  
223 ~~subparagraph 1., the corporation shall implement a rate increase~~  
224 ~~each year which does not exceed 10 percent for any single policy~~



225 ~~issued by the corporation, excluding coverage changes and~~  
 226 ~~surcharges.~~

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

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

237 Section 2. Present subsection (9) of section 624.430,  
 238 Florida Statutes, is renumbered as subsection (10), and a new  
 239 subsection (9) is added to that section, to read:

240 624.430 Withdrawal of insurer or discontinuance of writing  
 241 certain kinds or lines of insurance.—

242 (9) The office may not deny Citizens Property Insurance  
 243 Corporation's plan of withdrawal as described in s.  
 244 627.351(6) (n).

245 Section 3. This act shall take effect July 1, 2010.