

By Senator Bennett

21-01507-10

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

23  
24 Be It Enacted by the Legislature of the State of Florida:

25  
26           Section 1. Paragraphs (a) and (n) of subsection (6) of  
27           section 627.351, Florida Statutes, are amended to read:

28           627.351 Insurance risk apportionment plans.—

29           (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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30 (a)1. It is the public purpose of this subsection to ensure  
31 the existence of an orderly market for property insurance for  
32 Floridians and Florida businesses. ~~The Legislature finds that~~  
33 ~~private insurers are unwilling or unable to provide affordable~~  
34 ~~property insurance coverage in this state to the extent sought~~  
35 ~~and needed. The absence of affordable property insurance~~  
36 ~~threatens the public health, safety, and welfare and likewise~~  
37 ~~threatens the economic health of the state.~~ The state therefore  
38 has a compelling public interest and a public purpose to assist  
39 in assuring that property in the state is insured and ~~that it is~~  
40 ~~insured at affordable rates so as~~ to facilitate the remediation,  
41 reconstruction, and replacement of damaged or destroyed property  
42 in order to reduce or avoid the negative effects otherwise  
43 resulting to the public health, safety, and welfare, to the  
44 economy of the state, and to the revenues of the state and local  
45 governments which are needed to provide for the public welfare.  
46 It is necessary, therefore, to allow the Citizens Property  
47 Insurance Corporation to be restored to its prior status as an  
48 insurer of last resort and to allow the corporation to develop  
49 actuarially sound rates over a period of time so that it can pay  
50 claims promptly and fulfill its statutory obligations. To that  
51 end, Citizens Property Insurance Corporation shall achieve  
52 actuarially sound rates within the time period specified in this  
53 subsection or must file a plan to withdraw from the state  
54 pursuant to the requirements in s. 624.430 ~~provide affordable~~  
55 ~~property insurance to applicants who are in good faith entitled~~  
56 ~~to procure insurance through the voluntary market but are unable~~  
57 ~~to do so. The Legislature intends by this subsection that~~  
58 ~~affordable property insurance be provided and that it continue~~

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

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

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

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

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117 the dwelling is ineligible for coverage. The office shall  
118 approve the method used by the corporation for valuing the  
119 dwelling replacement cost for the purposes of this subparagraph.  
120 If a policyholder is insured by the corporation prior to being  
121 determined to be ineligible pursuant to this subparagraph and  
122 such policyholder files a lawsuit challenging the determination,  
123 the policyholder may remain insured by the corporation until the  
124 conclusion of the litigation.

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

134 5. Effective January 1, 2009, a personal lines residential  
135 structure that is located in the "wind-borne debris region," as  
136 defined in s. 1609.2, International Building Code (2006), and  
137 that has an insured value on the structure of \$750,000 or more  
138 is not eligible for coverage by the corporation unless the  
139 structure has opening protections as required under the Florida  
140 Building Code for a newly constructed residential structure in  
141 that area. A residential structure shall be deemed to comply  
142 with the requirements of this subparagraph if it has shutters or  
143 opening protections on all openings and if such opening  
144 protections complied with the Florida Building Code at the time  
145 they were installed.

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

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

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

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

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

168           (I) The actual cost of reinsurance purchased from the  
169 Florida Hurricane Catastrophe Fund or in the private reinsurance  
170 market; and

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

174           c. May use one or more models found to be accurate and

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175 reliable by the Florida Commission on Hurricane Loss Projection  
176 Methodology.

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

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

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

196 3. After the public hurricane loss projection model under  
197 s. 627.06281 has been found to be accurate and reliable by the  
198 Florida Commission on Hurricane Loss Projection Methodology,  
199 that model shall serve as the minimum benchmark for determining  
200 the windstorm portion of the corporation's rates. This  
201 subparagraph does not require or allow the corporation to adopt  
202 rates lower than the rates otherwise required or allowed by this  
203 paragraph.

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



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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.