

By Senator Fasano

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1 A bill to be entitled
2 An act relating to property loss appraisals; amending
3 s. 627.351, F.S.; requiring Citizens Property
4 Insurance Corporation's plan of operation to provide
5 for the adoption of policy forms that require
6 compliance with certain conditions and procedures
7 relating to the participation of umpires and
8 appraisers in the loss appraisal process under certain
9 circumstances; providing that either party may submit
10 a written demand to enter into the process of
11 appraisal when the insured and the corporation fail to
12 mutually agree to the actual cash value, the amount of
13 loss, or the cost of repair or replacement of property
14 for which a claim has been filed; providing an
15 exception upon which the corporation may refuse to
16 accept such demand; providing that the corporation
17 waives the right to demand an appraisal under certain
18 circumstances; requiring each party to select a
19 competent and independent appraiser and to notify the
20 opposing party within a specified period; requiring
21 the appraisers to select an appraisal umpire;
22 authorizing either party to file a petition, in a
23 county or circuit court in the jurisdiction in which
24 the covered property is located, to designate an
25 appraisal umpire if the appraisers cannot agree on the
26 selection of an umpire; providing that appraisal
27 proceedings are informal unless the corporation and
28 the insured agree otherwise; defining and providing
29 the scope of the term "informal" for purposes of

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30 appraisal proceedings; requiring each appraiser to
31 submit a written report to the other appraiser;
32 requiring that any differences in findings between the
33 appraisers that cannot be resolved by the appraisers
34 themselves within a specified period be submitted to
35 the umpire for review; providing an exception;
36 requiring the umpire to submit his or her conclusions
37 regarding any unresolved differences in the findings
38 of the appraisers within a specified period; providing
39 that if either appraiser agrees with the conclusions
40 of the umpire, an itemized written appraisal award
41 signed by the umpire and appraiser shall be filed with
42 the corporation and shall determine the amount of the
43 loss; providing that the appraisal award is binding
44 upon the corporation and the insured; providing for
45 compensation of the appraisers and the umpire;
46 providing applicability of the Florida Arbitration
47 Code to residential or commercial residential property
48 insurance loss appraisal proceedings and specified
49 procedural matters; prohibiting the appraisal process
50 from addressing issues involving coverage or lack
51 thereof under an insurance contract; authorizing the
52 umpire and appraisers to consider causation issues
53 when necessary to determine the amount of loss;
54 providing an effective date.

55
56 Be It Enacted by the Legislature of the State of Florida:

57
58 Section 1. Paragraph (c) of subsection (6) of section

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59 627.351, Florida Statutes, is amended to read:

60 627.351 Insurance risk apportionment plans.—

61 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

62 (c) The corporation's plan of operation:

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

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

72 b. Basic personal lines policy forms that are policies
73 similar to an HO-8 policy or a dwelling fire policy that provide
74 coverage meeting the requirements of the secondary mortgage
75 market, but which is more limited than the coverage under a
76 standard policy.

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

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

87 e. Commercial lines nonresidential property insurance forms

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88 that cover the peril of wind only. The forms are applicable only
89 to nonresidential properties located in areas eligible for
90 coverage under the coastal account referred to in sub-
91 subparagraph (b)2.a.

92 f. When the only issue remaining between an insured and the
93 corporation on a residential or commercial residential property
94 is the actual cash value, the amount of loss, or the cost of
95 repair or replacement of property for which a claim has been
96 filed, residential and commercial residential property insurance
97 forms that apply to the umpires and appraisers who participate
98 in the appraisal process and that require compliance with the
99 following conditions and procedures:

100 (I) Either party may submit a written demand to enter into
101 the process of appraisal.

102 (II) The corporation may refuse to accept the demand only
103 if the insured materially fails to comply with the proof-of-loss
104 obligations of the insured as set forth in the policy
105 conditions.

106 (III) The corporation is deemed to have waived its right to
107 demand an appraisal if it fails to invoke an appraisal within 30
108 days after the insured substantially complies with the proof-of-
109 loss obligation as set forth in the policy conditions.

110 (IV) Each party shall select a competent appraiser and
111 notify the other party of the appraiser selected within 20 days
112 after the date of the demand for an appraisal. The appraisers
113 shall select a competent, independent, and impartial umpire. If
114 the appraisers are unable to agree on an umpire within 15 days,
115 the insured or the corporation may file a petition with a county
116 or circuit court in the jurisdiction in which the covered

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117 property is located to designate a property insurance appraisal
118 umpire for the appraisal.

119 (V) Appraisal proceedings are informal unless the insured
120 and the corporation mutually agree otherwise. As used in this
121 sub-sub-subparagraph, the term "informal" means that formal
122 discovery is not conducted, including depositions,
123 interrogatories, requests for admission, or other forms of
124 formal civil discovery; formal rules of evidence are not
125 applied; and a court reporter is not used for the proceedings.
126 However, either appraiser may rely on experts in reaching the
127 value of loss.

128 (VI) Within 60 days after being appointed, each appraiser
129 shall appraise the loss and submit a written report to the other
130 appraiser that separately states the cost of the loss, the
131 actual cash value, or the cost to repair or replace each item.
132 Within 30 days after submitting the reports, the appraisers
133 shall attempt to resolve any differences in the appraisals and
134 reach a mutual agreement on all matters. If the appraisers are
135 unable to agree, they shall, within 5 days after the end of the
136 30-day period, submit the differences in their findings in
137 writing to the umpire. However, the appraisers have an
138 additional 60 days after appointment to appraise the loss and
139 submit a written report if the loss is covered under a
140 commercial property insurance policy and the insured structure
141 is 10,000 square feet or more or is covered under a residential
142 or commercial residential insurance policy and the claim is
143 based on and made subsequent to a hurricane designated by the
144 National Hurricane Center or an emergency declared by the
145 Governor.

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146 (VII) The umpire shall review any differences in appraisals
147 submitted by the appraisers and determine the amount of the loss
148 for each item submitted. Within 10 days after receipt of any
149 differences in appraisals, the umpire shall submit his or her
150 conclusions in writing to each appraiser.

151 (VIII) If either appraiser agrees with the conclusions of
152 the umpire, an itemized written appraisal award signed by the
153 umpire and the appraiser shall be filed with the corporation and
154 shall determine the amount of the loss.

155 (IX) The appraisal award is binding on the corporation and
156 the insured with regard to the amount of the loss. If the
157 insurance policy so provides, the corporation may assert that
158 there is no coverage under the policy for the loss as a whole or
159 that there has been a violation of the policy conditions with
160 respect to fraud, lack of notice, or failure to cooperate.

161 (X) Each appraiser shall be paid by the party who selects
162 the appraiser, and the expenses of the appraisal and fees of the
163 umpire shall be paid by the parties equally, except that if the
164 final determination of the amount of the loss exceeds the
165 corporation's preappraisal estimate of the loss communicated to
166 the insured in writing by 50 percent or more, the corporation
167 shall pay all expenses, including any fees and expenses charged
168 by the insured's appraiser and all fees and expenses of the
169 umpire. This sub-sub-subparagraph does not affect an insured's
170 claim for attorney fees under s. 627.428.

171 (XI) The Florida Arbitration Code does not apply to
172 residential and commercial residential property insurance loss
173 appraisal proceedings, except for those provisions of the code
174 regarding proceedings to compel and stay arbitration in s.

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175 682.03; procedures for correcting, vacating, or modifying an
176 award in ss. 682.10, 682.13, and 682.14; procedures for entry of
177 judgment on the award in s. 682.15; and procedures regarding
178 confirmation of an award in s. 682.12.

179 (XII) The appraisal process may not address issues
180 involving whether the loss or damage is covered under the terms
181 of the insurance contract. However, the appraisers and the
182 umpire may consider causation issues, if necessary, to determine
183 the amount of loss.

184

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

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

194 a. As used in this subsection, the term:

195 (I) "Quota share primary insurance" means an arrangement in
196 which the primary hurricane coverage of an eligible risk is
197 provided in specified percentages by the corporation and an
198 authorized insurer. The corporation and authorized insurer are
199 each solely responsible for a specified percentage of hurricane
200 coverage of an eligible risk as set forth in a quota share
201 primary insurance agreement between the corporation and an
202 authorized insurer and the insurance contract. The
203 responsibility of the corporation or authorized insurer to pay

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204 its specified percentage of hurricane losses of an eligible
205 risk, as set forth in the agreement, may not be altered by the
206 inability of the other party to pay its specified percentage of
207 losses. Eligible risks that are provided hurricane coverage
208 through a quota share primary insurance arrangement must be
209 provided policy forms that set forth the obligations of the
210 corporation and authorized insurer under the arrangement,
211 clearly specify the percentages of quota share primary insurance
212 provided by the corporation and authorized insurer, and
213 conspicuously and clearly state that the authorized insurer and
214 the corporation may not be held responsible beyond their
215 specified percentage of coverage of hurricane losses.

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

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

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

230 d. Any quota share primary insurance agreement entered into
231 between an authorized insurer and the corporation must provide
232 for a uniform specified percentage of coverage of hurricane

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233 losses, by county or territory as set forth by the corporation
234 board, for all eligible risks of the authorized insurer covered
235 under the agreement.

236 e. Any quota share primary insurance agreement entered into
237 between an authorized insurer and the corporation is subject to
238 review and approval by the office. However, such agreement shall
239 be authorized only as to insurance contracts entered into
240 between an authorized insurer and an insured who is already
241 insured by the corporation for wind coverage.

242 f. For all eligible risks covered under quota share primary
243 insurance agreements, the exposure and coverage levels for both
244 the corporation and authorized insurers shall be reported by the
245 corporation to the Florida Hurricane Catastrophe Fund. For all
246 policies of eligible risks covered under such agreements, the
247 corporation and the authorized insurer must maintain complete
248 and accurate records for the purpose of exposure and loss
249 reimbursement audits as required by fund rules. The corporation
250 and the authorized insurer shall each maintain duplicate copies
251 of policy declaration pages and supporting claims documents.

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

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

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

271 3.a. May provide that the corporation may employ or
272 otherwise contract with individuals or other entities to provide
273 administrative or professional services that may be appropriate
274 to effectuate the plan. The corporation may borrow funds by
275 issuing bonds or by incurring other indebtedness, and shall have
276 other powers reasonably necessary to effectuate the requirements
277 of this subsection, including, without limitation, the power to
278 issue bonds and incur other indebtedness in order to refinance
279 outstanding bonds or other indebtedness. The corporation may
280 seek judicial validation of its bonds or other indebtedness
281 under chapter 75. The corporation may issue bonds or incur other
282 indebtedness, or have bonds issued on its behalf by a unit of
283 local government pursuant to subparagraph (q)2. in the absence
284 of a hurricane or other weather-related event, upon a
285 determination by the corporation, subject to approval by the
286 office, that such action would enable it to efficiently meet the
287 financial obligations of the corporation and that such
288 financings are reasonably necessary to effectuate the
289 requirements of this subsection. The corporation may take all
290 actions needed to facilitate tax-free status for such bonds or

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291 indebtedness, including formation of trusts or other affiliated
292 entities. The corporation may pledge assessments, projected
293 recoveries from the Florida Hurricane Catastrophe Fund, other
294 reinsurance recoverables, market equalization and other
295 surcharges, and other funds available to the corporation as
296 security for bonds or other indebtedness. In recognition of s.
297 10, Art. I of the State Constitution, prohibiting the impairment
298 of obligations of contracts, it is the intent of the Legislature
299 that no action be taken whose purpose is to impair any bond
300 indenture or financing agreement or any revenue source committed
301 by contract to such bond or other indebtedness.

302 b. To ensure that the corporation is operating in an
303 efficient and economic manner while providing quality service to
304 policyholders, applicants, and agents, the board shall
305 commission an independent third-party consultant having
306 expertise in insurance company management or insurance company
307 management consulting to prepare a report and make
308 recommendations on the relative costs and benefits of
309 outsourcing various policy issuance and service functions to
310 private servicing carriers or entities performing similar
311 functions in the private market for a fee, rather than
312 performing such functions in-house. In making such
313 recommendations, the consultant shall consider how other
314 residual markets, both in this state and around the country,
315 outsource appropriate functions or use servicing carriers to
316 better match expenses with revenues that fluctuate based on a
317 widely varying policy count. The report must be completed by
318 July 1, 2012. Upon receiving the report, the board shall develop
319 a plan to implement the report and submit the plan for review,

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320 modification, and approval to the Financial Services Commission.
321 Upon the commission's approval of the plan, the board shall
322 begin implementing the plan by January 1, 2013.

323 4. Must require that the corporation operate subject to the
324 supervision and approval of a board of governors consisting of
325 eight individuals who are residents of this state, from
326 different geographical areas of this state.

327 a. The Governor, the Chief Financial Officer, the President
328 of the Senate, and the Speaker of the House of Representatives
329 shall each appoint two members of the board. At least one of the
330 two members appointed by each appointing officer must have
331 demonstrated expertise in insurance and is deemed to be within
332 the scope of the exemption provided in s. 112.313(7)(b). The
333 Chief Financial Officer shall designate one of the appointees as
334 chair. All board members serve at the pleasure of the appointing
335 officer. All members of the board are subject to removal at will
336 by the officers who appointed them. All board members, including
337 the chair, must be appointed to serve for 3-year terms beginning
338 annually on a date designated by the plan. However, for the
339 first term beginning on or after July 1, 2009, each appointing
340 officer shall appoint one member of the board for a 2-year term
341 and one member for a 3-year term. A board vacancy shall be
342 filled for the unexpired term by the appointing officer. The
343 Chief Financial Officer shall appoint a technical advisory group
344 to provide information and advice to the board in connection
345 with the board's duties under this subsection. The executive
346 director and senior managers of the corporation shall be engaged
347 by the board and serve at the pleasure of the board. Any
348 executive director appointed on or after July 1, 2006, is

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349 subject to confirmation by the Senate. The executive director is
350 responsible for employing other staff as the corporation may
351 require, subject to review and concurrence by the board.

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

357 (I) The members of the advisory committee consist of the
358 following 11 persons, one of whom must be elected chair by the
359 members of the committee: four representatives, one appointed by
360 the Florida Association of Insurance Agents, one by the Florida
361 Association of Insurance and Financial Advisors, one by the
362 Professional Insurance Agents of Florida, and one by the Latin
363 American Association of Insurance Agencies; three
364 representatives appointed by the insurers with the three highest
365 voluntary market share of residential property insurance
366 business in the state; one representative from the Office of
367 Insurance Regulation; one consumer appointed by the board who is
368 insured by the corporation at the time of appointment to the
369 committee; one representative appointed by the Florida
370 Association of Realtors; and one representative appointed by the
371 Florida Bankers Association. All members shall be appointed to
372 3-year terms and may serve for consecutive terms.

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

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378 matters relating to depopulation.

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

381 a. Subject to s. 627.3517, with respect to personal lines
382 residential risks, if the risk is offered coverage from an
383 authorized insurer at the insurer's approved rate under a
384 standard policy including wind coverage or, if consistent with
385 the insurer's underwriting rules as filed with the office, a
386 basic policy including wind coverage, for a new application to
387 the corporation for coverage, the risk is not eligible for any
388 policy issued by the corporation unless the premium for coverage
389 from the authorized insurer is more than 15 percent greater than
390 the premium for comparable coverage from the corporation. If the
391 risk is not able to obtain such offer, the risk is eligible for
392 a standard policy including wind coverage or a basic policy
393 including wind coverage issued by the corporation; however, if
394 the risk could not be insured under a standard policy including
395 wind coverage regardless of market conditions, the risk is
396 eligible for a basic policy including wind coverage unless
397 rejected under subparagraph 8. However, a policyholder of the
398 corporation or a policyholder removed from the corporation
399 through an assumption agreement until the end of the assumption
400 period remains eligible for coverage from the corporation
401 regardless of any offer of coverage from an authorized insurer
402 or surplus lines insurer. The corporation shall determine the
403 type of policy to be provided on the basis of objective
404 standards specified in the underwriting manual and based on
405 generally accepted underwriting practices.

406 (I) If the risk accepts an offer of coverage through the

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407 market assistance plan or through a mechanism established by the
408 corporation before a policy is issued to the risk by the
409 corporation or during the first 30 days of coverage by the
410 corporation, and the producing agent who submitted the
411 application to the plan or to the corporation is not currently
412 appointed by the insurer, the insurer shall:

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

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

423

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

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

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

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

440

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

444 b. With respect to commercial lines residential risks, for
445 a new application to the corporation for coverage, if the risk
446 is offered coverage under a policy including wind coverage from
447 an authorized insurer at its approved rate, the risk is not
448 eligible for a policy issued by the corporation unless the
449 premium for coverage from the authorized insurer is more than 15
450 percent greater than the premium for comparable coverage from
451 the corporation. If the risk is not able to obtain any such
452 offer, the risk is eligible for a policy including wind coverage
453 issued by the corporation. However, a policyholder of the
454 corporation or a policyholder removed from the corporation
455 through an assumption agreement until the end of the assumption
456 period remains eligible for coverage from the corporation
457 regardless of an offer of coverage from an authorized insurer or
458 surplus lines insurer.

459 (I) If the risk accepts an offer of coverage through the
460 market assistance plan or through a mechanism established by the
461 corporation before a policy is issued to the risk by the
462 corporation or during the first 30 days of coverage by the
463 corporation, and the producing agent who submitted the
464 application to the plan or the corporation is not currently

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465 appointed by the insurer, the insurer shall:

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

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

476

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

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

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

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

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

497 c. For purposes of determining comparable coverage under
498 sub-subparagraphs a. and b., the comparison must be based on
499 those forms and coverages that are reasonably comparable. The
500 corporation may rely on a determination of comparable coverage
501 and premium made by the producing agent who submits the
502 application to the corporation, made in the agent's capacity as
503 the corporation's agent. A comparison may be made solely of the
504 premium with respect to the main building or structure only on
505 the following basis: the same coverage A or other building
506 limits; the same percentage hurricane deductible that applies on
507 an annual basis or that applies to each hurricane for commercial
508 residential property; the same percentage of ordinance and law
509 coverage, if the same limit is offered by both the corporation
510 and the authorized insurer; the same mitigation credits, to the
511 extent the same types of credits are offered both by the
512 corporation and the authorized insurer; the same method for loss
513 payment, such as replacement cost or actual cash value, if the
514 same method is offered both by the corporation and the
515 authorized insurer in accordance with underwriting rules; and
516 any other form or coverage that is reasonably comparable as
517 determined by the board. If an application is submitted to the
518 corporation for wind-only coverage in the coastal account, the
519 premium for the corporation's wind-only policy plus the premium
520 for the ex-wind policy that is offered by an authorized insurer
521 to the applicant must be compared to the premium for multiperil
522 coverage offered by an authorized insurer, subject to the

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523 standards for comparison specified in this subparagraph. If the
524 corporation or the applicant requests from the authorized
525 insurer a breakdown of the premium of the offer by types of
526 coverage so that a comparison may be made by the corporation or
527 its agent and the authorized insurer refuses or is unable to
528 provide such information, the corporation may treat the offer as
529 not being an offer of coverage from an authorized insurer at the
530 insurer's approved rate.

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

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

541 8. Must provide objective criteria and procedures to be
542 uniformly applied to all applicants in determining whether an
543 individual risk is so hazardous as to be uninsurable. In making
544 this determination and in establishing the criteria and
545 procedures, the following must be considered:

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

549 b. Whether the uncertainty associated with the individual
550 risk is such that an appropriate premium cannot be determined.
551

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

555 9. Must provide that the corporation make its best efforts
556 to procure catastrophe reinsurance at reasonable rates, to cover
557 its projected 100-year probable maximum loss as determined by
558 the board of governors.

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

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

572 12. May establish, subject to approval by the office,
573 different eligibility requirements and operational procedures
574 for any line or type of coverage for any specified county or
575 area if the board determines that such changes are justified due
576 to the voluntary market being sufficiently stable and
577 competitive in such area or for such line or type of coverage
578 and that consumers who, in good faith, are unable to obtain
579 insurance through the voluntary market through ordinary methods
580 continue to have access to coverage from the corporation. If

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581 coverage is sought in connection with a real property transfer,
582 the requirements and procedures may not provide an effective
583 date of coverage later than the date of the closing of the
584 transfer as established by the transferor, the transferee, and,
585 if applicable, the lender.

586 13. Must provide that, with respect to the coastal account,
587 any assessable insurer with a surplus as to policyholders of \$25
588 million or less writing 25 percent or more of its total
589 countrywide property insurance premiums in this state may
590 petition the office, within the first 90 days of each calendar
591 year, to qualify as a limited apportionment company. A regular
592 assessment levied by the corporation on a limited apportionment
593 company for a deficit incurred by the corporation for the
594 coastal account may be paid to the corporation on a monthly
595 basis as the assessments are collected by the limited
596 apportionment company from its insureds pursuant to s. 627.3512,
597 but the regular assessment must be paid in full within 12 months
598 after being levied by the corporation. A limited apportionment
599 company shall collect from its policyholders any emergency
600 assessment imposed under sub-subparagraph (b)3.d. The plan must
601 provide that, if the office determines that any regular
602 assessment will result in an impairment of the surplus of a
603 limited apportionment company, the office may direct that all or
604 part of such assessment be deferred as provided in subparagraph
605 (q)4. However, an emergency assessment to be collected from
606 policyholders under sub-subparagraph (b)3.d. may not be limited
607 or deferred.

608 14. Must provide that the corporation appoint as its
609 licensed agents only those agents who also hold an appointment

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610 as defined in s. 626.015(3) with an insurer who at the time of
611 the agent's initial appointment by the corporation is authorized
612 to write and is actually writing personal lines residential
613 property coverage, commercial residential property coverage, or
614 commercial nonresidential property coverage within the state.

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

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

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

624 18. May require commercial property to meet specified
625 hurricane mitigation construction features as a condition of
626 eligibility for coverage.

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

636 20. As of January 1, 2012, must require that the agent
637 obtain from an applicant for coverage from the corporation an
638 acknowledgement signed by the applicant, which includes, at a

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639 minimum, the following statement:

640 ACKNOWLEDGEMENT OF POTENTIAL SURCHARGE
641 AND ASSESSMENT LIABILITY:

642 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
643 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
644 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
645 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
646 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE
647 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT
648 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
649 LEGISLATURE.

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

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

657 a. The corporation shall maintain, in electronic format or
658 otherwise, a copy of the applicant's signed acknowledgement and
659 provide a copy of the statement to the policyholder as part of
660 the first renewal after the effective date of this subparagraph.

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

665 Section 2. This act shall take effect July 1, 2012.