

By Senator Fasano

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1 A bill to be entitled
2 An act relating to property insurance; amending s.
3 627.351, F.S.; revising the membership of the Market
4 Accountability Advisory Committee of the board of
5 governors of Citizens Property Insurance Corporation;
6 extending the corporation's annual rate increase cap
7 to sinkhole coverage; amending s. 627.405, F.S.;
8 requiring an insurer to accept a private structural
9 appraisal under certain circumstances; amending s.
10 627.7011, F.S.; requiring an insurer to pay
11 replacement cost coverage without reservation or
12 depreciation for dwelling losses that result from a
13 state of emergency; amending s. 627.7073, F.S.;
14 revising provisions relating to filing and recording
15 certain reports relating to sinkhole damage and repair
16 with the county clerk of the court; providing an
17 effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. Paragraphs (c) and (n) of subsection (6) of
22 section 627.351, Florida Statutes, are amended to read:

23 627.351 Insurance risk apportionment plans.—

24 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

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

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30 the following policy forms:

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

35 b. Basic personal lines policy forms that are policies
36 similar to an HO-8 policy or a dwelling fire policy that provide
37 coverage meeting the requirements of the secondary mortgage
38 market, but which is more limited than the coverage under a
39 standard policy.

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

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

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

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

58 2. Must provide that the corporation adopt a program in

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

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

65 (I) "Quota share primary insurance" means an arrangement in
66 which the primary hurricane coverage of an eligible risk is
67 provided in specified percentages by the corporation and an
68 authorized insurer. The corporation and authorized insurer are
69 each solely responsible for a specified percentage of hurricane
70 coverage of an eligible risk as set forth in a quota share
71 primary insurance agreement between the corporation and an
72 authorized insurer and the insurance contract. The
73 responsibility of the corporation or authorized insurer to pay
74 its specified percentage of hurricane losses of an eligible
75 risk, as set forth in the agreement, may not be altered by the
76 inability of the other party to pay its specified percentage of
77 losses. Eligible risks that are provided hurricane coverage
78 through a quota share primary insurance arrangement must be
79 provided policy forms that set forth the obligations of the
80 corporation and authorized insurer under the arrangement,
81 clearly specify the percentages of quota share primary insurance
82 provided by the corporation and authorized insurer, and
83 conspicuously and clearly state that the authorized insurer and
84 the corporation may not be held responsible beyond their
85 specified percentage of coverage of hurricane losses.

86 (II) "Eligible risks" means personal lines residential and
87 commercial lines residential risks that meet the underwriting

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88 criteria of the corporation and are located in areas that were
89 eligible for coverage by the Florida Windstorm Underwriting
90 Association on January 1, 2002.

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

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

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

106 e. Any quota share primary insurance agreement entered into
107 between an authorized insurer and the corporation is subject to
108 review and approval by the office. However, such agreement shall
109 be authorized only as to insurance contracts entered into
110 between an authorized insurer and an insured who is already
111 insured by the corporation for wind coverage.

112 f. For all eligible risks covered under quota share primary
113 insurance agreements, the exposure and coverage levels for both
114 the corporation and authorized insurers shall be reported by the
115 corporation to the Florida Hurricane Catastrophe Fund. For all
116 policies of eligible risks covered under such agreements, the

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117 corporation and the authorized insurer must maintain complete
118 and accurate records for the purpose of exposure and loss
119 reimbursement audits as required by fund rules. The corporation
120 and the authorized insurer shall each maintain duplicate copies
121 of policy declaration pages and supporting claims documents.

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

128 h. The quota share primary insurance agreement between the
129 corporation and an authorized insurer must set forth the
130 specific terms under which coverage is provided, including, but
131 not limited to, the sale and servicing of policies issued under
132 the agreement by the insurance agent of the authorized insurer
133 producing the business, the reporting of information concerning
134 eligible risks, the payment of premium to the corporation, and
135 arrangements for the adjustment and payment of hurricane claims
136 incurred on eligible risks by the claims adjuster and personnel
137 of the authorized insurer. Entering into a quota sharing
138 insurance agreement between the corporation and an authorized
139 insurer is voluntary and at the discretion of the authorized
140 insurer.

141 3.~~a~~. May provide that the corporation ~~may~~ employ or
142 otherwise contract with individuals or other entities to provide
143 administrative or professional services that may be appropriate
144 to effectuate the plan.

145 a. The corporation may borrow funds by issuing bonds or by

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146 incurring other indebtedness, and shall have other powers
147 reasonably necessary to effectuate the requirements of this
148 subsection, including, ~~without limitation,~~ the power to issue
149 bonds and incur other indebtedness in order to refinance
150 outstanding bonds or other indebtedness. The corporation may
151 seek judicial validation of its bonds or other indebtedness
152 under chapter 75. The corporation may issue bonds or incur other
153 indebtedness, or have bonds issued on its behalf by a unit of
154 local government pursuant to subparagraph (q)2. in the absence
155 of a hurricane or other weather-related event, upon a
156 determination by the corporation, subject to approval by the
157 office, that such action would enable it to efficiently meet the
158 financial obligations of the corporation and that such
159 financings are reasonably necessary to effectuate the
160 requirements of this subsection. The corporation may take all
161 actions needed to facilitate tax-free status for such bonds or
162 indebtedness, including formation of trusts or other affiliated
163 entities. The corporation may pledge assessments, projected
164 recoveries from the Florida Hurricane Catastrophe Fund, other
165 reinsurance recoverables, market equalization and other
166 surcharges, and other funds available to the corporation as
167 security for bonds or other indebtedness. In recognition of s.
168 10, Art. I of the State Constitution, prohibiting the impairment
169 of obligations of contracts, it is the intent of the Legislature
170 that no action be taken whose purpose is to impair any bond
171 indenture or financing agreement or any revenue source committed
172 by contract to such bond or other indebtedness.

173 b. To ensure that the corporation is operating in an
174 efficient and economic manner while providing quality service to

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175 policyholders, applicants, and agents, the board shall
176 commission an independent third-party consultant having
177 expertise in insurance company management or insurance company
178 management consulting to prepare a report and make
179 recommendations on the relative costs and benefits of
180 outsourcing various policy issuance and service functions to
181 private servicing carriers or entities performing similar
182 functions in the private market for a fee, rather than
183 performing such functions in-house. In making such
184 recommendations, the consultant shall consider how other
185 residual markets, both in this state and around the country,
186 outsource appropriate functions or use servicing carriers to
187 better match expenses with revenues that fluctuate based on a
188 widely varying policy count. The report must be completed by
189 July 1, 2012. Upon receiving the report, the board shall develop
190 a plan to implement the report and submit the plan for review,
191 modification, and approval to the Financial Services Commission.
192 Upon the commission's approval of the plan, the board shall
193 begin implementing the plan by January 1, 2013.

194 4. Must require that the corporation operate subject to the
195 supervision and approval of a board of governors consisting of
196 eight individuals who are residents of but ~~this state~~, from
197 different geographical areas of this state.

198 a. The Governor, the Chief Financial Officer, the President
199 of the Senate, and the Speaker of the House of Representatives
200 shall each appoint two members of the board. At least one of the
201 two members appointed by each appointing officer must have
202 demonstrated expertise in insurance and ~~is~~ deemed to be within
203 the scope of the exemption provided in s. 112.313(7)(b). The

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204 Chief Financial Officer shall designate one of the appointees as
205 chair. All board members serve at the pleasure of the appointing
206 officer. All members of the board are subject to removal at will
207 by the officers who appointed them. All board members, including
208 the chair, must be appointed to serve for 3-year terms beginning
209 annually on a date designated by the plan. However, for the
210 first term beginning on or after July 1, 2009, each appointing
211 officer shall appoint one member of the board for a 2-year term
212 and one member for a 3-year term. A board vacancy shall be
213 filled for the unexpired term by the appointing officer. The
214 Chief Financial Officer shall appoint a technical advisory group
215 to provide information and advice to the board in connection
216 with the board's duties under this subsection. The executive
217 director and senior managers of the corporation shall be engaged
218 by the board and serve at the pleasure of the board. Any
219 executive director appointed on or after July 1, 2006, is
220 subject to confirmation by the Senate. The executive director is
221 responsible for employing other staff as the corporation may
222 require, subject to review and 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 16 ~~11~~ persons, one of whom must be elected chair by
230 the members of the committee: four representatives, one
231 appointed by the Florida Association of Insurance Agents, one by
232 the Florida Association of Insurance and Financial Advisors, one

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233 by the Professional Insurance Agents of Florida, and one by the
234 Latin American Association of Insurance Agencies; three
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; two consumers ~~one consumer~~ appointed by
239 the board who are ~~is~~ insured by the corporation at the time of
240 appointment to the committee; two representatives of nonprofit
241 organizations representing consumers on property insurance
242 issues; one public adjuster; one representative appointed by the
243 Florida Association of Realtors; ~~and~~ one representative
244 appointed by the Florida Bankers Association; and one
245 representative appointed by the Florida Justice Association. All
246 members shall be appointed to 3-year terms and may serve for
247 consecutive terms.

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

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

256 a. Subject to s. 627.3517, with respect to personal lines
257 residential risks, if the risk is offered coverage from an
258 authorized insurer at the insurer's approved rate under a
259 standard policy including wind coverage or, if consistent with
260 the insurer's underwriting rules as filed with the office, a
261 basic policy including wind coverage, for a new application to

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262 the corporation for coverage, the risk is not eligible for any
263 policy issued by the corporation unless the premium for coverage
264 from the authorized insurer is more than 15 percent greater than
265 the premium for comparable coverage from the corporation. If the
266 risk is not able to obtain such offer, the risk is eligible for
267 a standard policy including wind coverage or a basic policy
268 including wind coverage issued by the corporation; however, if
269 the risk could not be insured under a standard policy including
270 wind coverage regardless of market conditions, the risk is
271 eligible for a basic policy including wind coverage unless
272 rejected under subparagraph 8. However, a policyholder of the
273 corporation or a policyholder removed from the corporation
274 through an assumption agreement until the end of the assumption
275 period remains eligible for coverage from the corporation
276 regardless of any offer of coverage from an authorized insurer
277 or surplus lines insurer. The corporation shall determine the
278 type of policy to be provided on the basis of objective
279 standards specified in the underwriting manual and based on
280 generally accepted underwriting practices.

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

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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 agreement
303 for a take-out plan, the producing agent of record of the
304 corporation policy is entitled to retain any unearned commission
305 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
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

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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. If the risk is not able to obtain any such
327 offer, the risk is eligible for a policy including wind coverage
328 issued by the corporation. However, a policyholder of the
329 corporation or a policyholder removed from the corporation
330 through an assumption agreement until the end of the assumption
331 period remains eligible for coverage from the corporation
332 regardless of an offer of coverage from an authorized insurer or
333 surplus lines insurer.

334 (I) If the risk accepts an offer of coverage through the
335 market assistance plan or through a mechanism established by the
336 corporation before a policy is issued to the risk by the
337 corporation or during the first 30 days of coverage by the
338 corporation, and the producing agent of record who submitted the
339 application to the plan or the corporation is not currently
340 appointed by the insurer, the insurer shall:

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

346 (B) Offer to allow the producing agent ~~of record of the~~
347 ~~policy~~ to continue servicing the policy for at least 1 year and
348 offer to pay the agent the greater of the insurer's or the

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349 corporation's usual and customary commission for the type of
350 policy written.

351

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

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

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

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

368

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

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

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378 the corporation's agent. A comparison may be made solely of the
379 premium with respect to the main building or structure only on
380 the following basis: the same coverage A or other building
381 limits; the same percentage hurricane deductible that applies on
382 an annual basis or that applies to each hurricane for commercial
383 residential property; the same percentage of ordinance and law
384 coverage, if the same limit is offered by both the corporation
385 and the authorized insurer; the same mitigation credits, to the
386 extent the same types of credits are offered both by the
387 corporation and the authorized insurer; the same method for loss
388 payment, such as replacement cost or actual cash value, if the
389 same method is offered both by the corporation and the
390 authorized insurer in accordance with underwriting rules; and
391 any other form or coverage that is reasonably comparable as
392 determined by the board. If an application is submitted to the
393 corporation for wind-only coverage in the coastal account, the
394 premium for the corporation's wind-only policy plus the premium
395 for the ex-wind policy that is offered by an authorized insurer
396 to the applicant must be compared to the premium for multiperil
397 coverage offered by an authorized insurer, subject to the
398 standards for comparison specified in this subparagraph. If the
399 corporation or the applicant requests from the authorized
400 insurer a breakdown of the premium of the offer by types of
401 coverage so that a comparison may be made by the corporation or
402 its agent and the authorized insurer refuses or is unable to
403 provide such information, the corporation may treat the offer as
404 not being an offer of coverage from an authorized insurer at the
405 insurer's approved rate.

406 6. Must include rules for classifications of risks and

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407 rates.

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

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

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

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

426

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

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

434 10. Must issue ~~The policies that issued by the corporation~~
435 ~~must~~ provide that if the corporation or the market assistance

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436 plan obtains an offer from an authorized insurer to cover the
437 risk at its approved rates, the risk is no longer eligible for
438 renewal through the corporation, except as otherwise provided in
439 this subsection.

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

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

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

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465 countrywide property insurance premiums in this state may
466 petition the office, within the first 90 days of each calendar
467 year, to qualify as a limited apportionment company. A regular
468 assessment levied by the corporation on a limited apportionment
469 company for a deficit incurred by the corporation for the
470 coastal account may be paid to the corporation on a monthly
471 basis as the assessments are collected by the limited
472 apportionment company from its insureds pursuant to s. 627.3512,
473 but the regular assessment must be paid in full within 12 months
474 after being levied by the corporation. A limited apportionment
475 company shall collect from its policyholders any emergency
476 assessment imposed under sub-subparagraph (b) 3.c. ~~(b) 3.d.~~ ~~The~~
477 ~~plan must provide that,~~ If the office determines that any
478 regular assessment will result in an impairment of the surplus
479 of a limited apportionment company, the office may direct that
480 all or part of such assessment be deferred as provided in
481 subparagraph (q)4. However, an emergency assessment to be
482 collected from policyholders under sub-subparagraph (b) 3.c.
483 ~~(b) 3.d.~~ may not be limited or deferred.

484 14. Must provide that the corporation appoint as its
485 licensed agents only those agents who also hold an appointment
486 as defined in s. 626.015(3) with an insurer who at the time of
487 the agent's initial appointment by the corporation is authorized
488 to write and is actually writing personal lines residential
489 property coverage, commercial residential property coverage, or
490 commercial nonresidential property coverage within the state.

491 15. Must provide a premium payment plan option to its
492 policyholders which, at a minimum, allows for quarterly and
493 semiannual payment of premiums. A monthly payment plan may, ~~but~~

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494 ~~is not required to,~~ be offered.

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

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

500 18. May require commercial property to meet specified
501 hurricane mitigation construction features as a condition of
502 eligibility for coverage.

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

512 20. As of January 1, 2012, must require that the agent
513 obtain from an applicant for coverage from the corporation an
514 acknowledgement signed by the applicant, which includes, at a
515 minimum, the following statement:

516
517 ACKNOWLEDGEMENT OF POTENTIAL SURCHARGE

518 AND ASSESSMENT LIABILITY:

519
520 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
521 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
522 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,

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523 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
524 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE
525 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT
526 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
527 LEGISLATURE.

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

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

535

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

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

544 (n)1. Rates for coverage provided by the corporation must
545 be actuarially sound and subject to s. 627.062, except as
546 otherwise provided in this paragraph. The corporation shall file
547 its recommended rates with the office at least annually. The
548 corporation shall provide any additional information regarding
549 the rates which the office requires. The office shall consider
550 the recommendations of the board and issue a final order
551 establishing the rates for the corporation within 45 days after

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552 the recommended rates are filed. The corporation may not pursue
553 an administrative challenge or judicial review of the final
554 order of the office.

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

559 3. After the public hurricane loss-projection model under
560 s. 627.06281 has been found to be accurate and reliable by the
561 Florida Commission on Hurricane Loss Projection Methodology, the
562 model shall serve as the minimum benchmark for determining the
563 windstorm portion of the corporation's rates. This subparagraph
564 does not require or allow the corporation to adopt rates lower
565 than the rates otherwise required or allowed by this paragraph.

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

578 5. ~~Beginning on July 15, 2009, and annually thereafter,~~ The
579 corporation must annually make a recommended actuarially sound
580 rate filing for each personal and commercial line of business it

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581 writes, ~~to be effective no earlier than January 1, 2010.~~

582 6. Beginning on or after January 1, 2010, and
583 notwithstanding the board's recommended rates and the office's
584 final order regarding the corporation's filed rates under
585 subparagraph 1., the corporation shall annually implement a rate
586 increase that ~~which, except for sinkhole coverage,~~ does not
587 exceed 10 percent for any single policy issued by the
588 corporation, excluding coverage changes and surcharges.

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

592 8. The corporation's implementation of rates as prescribed
593 in subparagraph 6. shall cease for any line of business written
594 by the corporation upon the corporation's implementation of
595 actuarially sound rates. Thereafter, the corporation shall
596 annually make a recommended actuarially sound rate filing for
597 each commercial and personal line of business the corporation
598 writes.

599 Section 2. Subsection (4) is added to section 627.405,
600 Florida Statutes, to read:

601 627.405 Insurable interest; property.-

602 (4) For property insurance, all insurers, including the
603 Citizens Property Insurance Corporation, must accept a private
604 structural appraisal from a state-licensed appraiser if the
605 appraisal shows that the replacement costs will be lower than
606 those projected by the insurer.

607 Section 3. Paragraph (a) of subsection (3) of section
608 627.7011, Florida Statutes, is amended to read:

609 627.7011 Homeowners' policies; offer of replacement cost

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610 coverage and law and ordinance coverage.—

611 (3) In the event of a loss for which a dwelling or personal
612 property is insured on the basis of replacement costs:

613 (a) For a dwelling, the insurer must initially pay at least
614 the actual cash value of the insured loss, less any applicable
615 deductible. The insurer shall pay any remaining amounts
616 necessary to perform such repairs as work is performed and
617 expenses are incurred. If a total loss of a dwelling occurs, or
618 for claims that are based on events that are the subject of a
619 declaration of a state of emergency by the Governor, the insurer
620 shall pay the replacement cost coverage without reservation or
621 holdback of any depreciation in value, pursuant to s. 627.702.

622 Section 4. Section 627.7073, Florida Statutes, is amended
623 to read:

624 627.7073 Sinkhole reports.—

625 (1) Upon completion of testing as provided in s. 627.7072,
626 the professional engineer or professional geologist shall issue
627 three original-signature and sealed reports, including a report
628 and certification, to the insurer. The insurer shall keep one
629 original, forward one original by certified mail to and the
630 policyholder, and file one original, which includes a legal
631 description of the real property and the name of the property
632 owner, with the clerk of the court, who shall record the report
633 as provided in this section. The insurer shall bear the cost of
634 filing and recording the report.

635 (a) Sinkhole loss is verified if, based upon tests
636 performed in accordance with s. 627.7072, a professional
637 engineer or a professional geologist issues a written report and
638 certification stating:

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639 1. That structural damage to the covered building has been
640 identified within a reasonable professional probability.

641 2. That the cause of the structural damage is sinkhole
642 activity within a reasonable professional probability.

643 3. That the analyses conducted were of sufficient scope to
644 identify sinkhole activity as the cause of damage within a
645 reasonable professional probability.

646 4. A description of the tests performed.

647 5. A recommendation by the professional engineer of methods
648 for stabilizing the land and building and for making repairs to
649 the foundation.

650 (b) If there is no structural damage or if sinkhole
651 activity is eliminated as the cause of such damage to the
652 covered building, the professional engineer or professional
653 geologist shall issue a written report and certification to the
654 policyholder and the insurer stating:

655 1. That there is no structural damage or the cause of such
656 damage is not sinkhole activity within a reasonable professional
657 probability.

658 2. That the analyses and tests conducted were of sufficient
659 scope to eliminate sinkhole activity as the cause of the
660 structural damage within a reasonable professional probability.

661 3. A statement of the cause of the structural damage within
662 a reasonable professional probability.

663 4. A description of the tests performed.

664 (c) The respective findings, opinions, and recommendations
665 of the insurer's professional engineer or professional geologist
666 as to the cause of distress to the property and the findings,
667 opinions, and recommendations of the insurer's professional

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668 engineer as to land and building stabilization and foundation
669 repair set forth by s. 627.7072 shall be presumed correct.

670 ~~(2) An insurer that has paid a claim for a sinkhole loss~~
671 ~~shall file a copy of the report and certification, prepared~~
672 ~~pursuant to subsection (1), including the legal description of~~
673 ~~the real property and the name of the property owner, the~~
674 ~~neutral evaluator's report, if any, which indicates that~~
675 ~~sinkhole activity caused the damage claimed, a copy of the~~
676 ~~certification indicating that stabilization has been completed,~~
677 ~~if applicable, and the amount of the payment, with the county~~
678 ~~clerk of court, who shall record the report and certification.~~
679 ~~The insurer shall bear the cost of filing and recording one or~~
680 ~~more reports and certifications. There shall be no cause of~~
681 ~~action or liability against an insurer for compliance with this~~
682 ~~section.~~

683 (d) ~~(a)~~ The recording of the report and certification does
684 not:

685 1. Constitute a lien, encumbrance, or restriction on the
686 title to the real property or constitute a defect in the title
687 to the real property;

688 2. Create any cause of action or liability against any
689 grantor of the real property for breach of any warranty of good
690 title or warranty against encumbrances; or

691 3. Create any cause of action or liability against any
692 title insurer that insures the title to the real property.

693 (2) ~~(b)~~ As a precondition to accepting payment for a
694 sinkhole loss, the policyholder must file a copy of any sinkhole
695 report regarding the insured property which was prepared on
696 behalf or at the request of the policyholder and which includes

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697 a legal description of the property and the property owner. The
698 policyholder shall bear the cost of filing and recording the
699 sinkhole report. The recording of the report does not:

700 (a)1. Constitute a lien, encumbrance, or restriction on the
701 title to the real property or constitute a defect in the title
702 to the real property;

703 (b)2. Create any cause of action or liability against any
704 grantor of the real property for breach of any warranty of good
705 title or warranty against encumbrances; or

706 (c)3. Create any cause of action or liability against a
707 title insurer that insures the title to the real property.

708 ~~(e) The seller of real property upon which a sinkhole claim~~
709 ~~has been made by the seller and paid by the insurer must~~
710 ~~disclose to the buyer of such property, before the closing, that~~
711 ~~a claim has been paid and whether or not the full amount of the~~
712 ~~proceeds was used to repair the sinkhole damage.~~

713 (3) An insurer that has paid a claim for a sinkhole loss
714 shall, within 30 days after payment, file with the county clerk
715 of court a copy of the neutral evaluator's report, if any, which
716 indicates that sinkhole activity caused the damage claimed; the
717 certification indicating that stabilization has been completed,
718 if applicable; the amount of the payment; and a legal
719 description of the property and the name of the property owner.
720 The clerk of court shall record the documents and information.
721 The insurer shall bear the cost of filing and recording. There
722 shall be no cause of action or liability against an insurer for
723 compliance with this subsection.

724 (4)~~(3)~~ Upon completion of any building stabilization or
725 foundation repairs for a verified sinkhole loss, the

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726 professional engineer responsible for monitoring the repairs
727 shall issue a report to the property owner which specifies what
728 repairs have been performed and certifies within a reasonable
729 degree of professional probability that such repairs have been
730 properly performed. The professional engineer issuing the report
731 shall file a copy of the report and certification, which
732 includes a legal description of the real property and the name
733 of the property owner, with the county clerk of the court, who
734 shall record the report and certification. This subsection does
735 not create liability for an insurer based on any representation
736 or certification by a professional engineer related to the
737 stabilization or foundation repairs for the verified sinkhole
738 loss.

739 (5) The seller of real property upon which a sinkhole claim
740 has been made by the seller and paid by the insurer must
741 disclose to the buyer of such property, before the closing, that
742 a claim has been paid and whether the full amount of the
743 proceeds was used to repair the sinkhole damage.

744 Section 5. This act shall take effect July 1, 2012.