

1                   A bill to be entitled  
2           An act relating to Citizens Property Insurance  
3           Corporation; amending s. 215.555, F.S., relating to  
4           the Florida Hurricane Catastrophe Fund; revising the  
5           definition of "covered policy"; amending s. 626.752,  
6           F.S., relating to the exchange of business between an  
7           agent and insurer; applying an exemption from the  
8           requirements of that section to the corporation;  
9           amending s. 627.351, F.S.; revising requirements  
10          relating to quota share primary insurance agreements;  
11          requiring the corporation and authorized insurers to  
12          enter into excess of loss reinsurance agreements and  
13          quota share reinsurance agreements in certain  
14          circumstances; authorizing the corporation's board of  
15          governors to limit the corporation's participation;  
16          deleting and revising related definitions; providing  
17          that entering into such agreements is at the  
18          discretion of the insurer; providing that if the  
19          corporation is the reinsurer, all forms and  
20          endorsements must be approved by the Office of  
21          Insurance Regulation; prohibiting the corporation from  
22          sharing risk for certain damages; requiring the  
23          corporation and each insurer to report additional  
24          information to the fund and revising the procedures  
25          for determining whether a risk is eligible for the  
26          corporation; requiring the corporation to implement  
27          eligibility procedures and operational requirements  
28          for certain purposes which include a clearinghouse for

29 | new applications; providing an effective date.

30 |

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

32 |

33 | Section 1. Paragraph (c) of subsection (2) of section  
34 | 215.555, Florida Statutes, is amended to read:

35 | 215.555 Florida Hurricane Catastrophe Fund.—

36 | (2) DEFINITIONS.—As used in this section:

37 | (c) "Covered policy" means any insurance policy covering  
38 | residential property in this state, including, but not limited  
39 | to, a ~~any~~ homeowner's, mobile home owner's, farm owner's,  
40 | condominium association, condominium unit owner's, tenant's, or  
41 | apartment building policy, or any other policy covering a  
42 | residential structure or its contents issued by an ~~any~~  
43 | authorized insurer, including a commercial self-insurance fund  
44 | holding a certificate of authority issued by the Office of  
45 | Insurance Regulation under s. 624.462, the Citizens Property  
46 | Insurance Corporation, and any joint underwriting association or  
47 | similar entity created under law. The term "covered policy"  
48 | includes any collateral protection insurance policy covering  
49 | personal residences which protects both the borrower's and the  
50 | lender's financial interests, in an amount at least equal to the  
51 | coverage for the dwelling in place under the lapsed homeowner's  
52 | policy, if such policy can be accurately reported as required  
53 | under ~~in~~ subsection (5). ~~Additionally,~~ Covered policies also  
54 | include policies covering the peril of wind removed from ~~the~~  
55 | ~~Florida Residential Property and Casualty Joint Underwriting~~  
56 | ~~Association or from the~~ Citizens Property Insurance Corporation,

HB 1099

2013

57 | created under s. 627.351(6), ~~or from the Florida Windstorm~~  
58 | ~~Underwriting Association, created under s. 627.351(2)~~, by an  
59 | authorized insurer under the terms and conditions of an executed  
60 | Citizens Property Insurance Corporation assumption or  
61 | reinsurance agreement between the authorized insurer and the  
62 | ~~such association or Citizens Property Insurance~~ corporation.  
63 | Each assumption or reinsurance agreement between the ~~association~~  
64 | ~~and such~~ authorized insurer and the ~~or Citizens Property~~  
65 | ~~Insurance~~ corporation must be approved by the Office of  
66 | Insurance Regulation before the effective date of the agreement  
67 | ~~assumption~~, and the office ~~of Insurance Regulation~~ must provide  
68 | written notification to the board within 15 working days after  
69 | such approval. The term "covered policy" does not include any  
70 | policy that excludes wind coverage or hurricane coverage or any  
71 | reinsurance agreement, other than a Citizens Property Insurance  
72 | Corporation reinsurance agreement, and does not include any  
73 | policy otherwise meeting this definition which is issued by a  
74 | surplus lines insurer or a reinsurer. All commercial residential  
75 | excess policies and all deductible buy-back policies that, based  
76 | on sound actuarial principles, require individual ratemaking  
77 | shall be excluded by rule if the actuarial soundness of the fund  
78 | is not jeopardized. For this purpose, the term "excess policy"  
79 | means a policy that provides insurance protection for large  
80 | commercial property risks and that provides a layer of coverage  
81 | above a primary layer insured by another insurer.

82 | Section 2. Subsection (4) of section 626.752, Florida  
83 | Statutes, is amended to read:

84 | 626.752 Exchange of business.—

85           (4) The foregoing limitations and restrictions ~~do shall~~  
 86 ~~not be construed and shall~~ not apply to the placing of surplus  
 87 lines business under the provisions of part VIII or to Citizens  
 88 Property Insurance Corporation acting as an agent to place new  
 89 and renewal business with authorized insurers in conjunction  
 90 with efforts to reduce the size of the corporation pursuant to  
 91 s. 627.351(6).

92           Section 3. Paragraph (c) of subsection (6) of section  
 93 627.351, Florida Statutes, is amended to read:

94           627.351 Insurance risk apportionment plans.—

95           (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

97           1. Must provide for adoption of residential property and  
 98 casualty insurance policy forms and commercial residential and  
 99 nonresidential property insurance forms, which must be approved  
 100 by the office before use. The corporation shall adopt the  
 101 following policy forms:

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

106           b. Basic personal lines policy forms that are policies  
 107 similar to an HO-8 policy or a dwelling fire policy that provide  
 108 coverage meeting the requirements of the secondary mortgage  
 109 market, but which is more limited than the coverage under a  
 110 standard policy.

111           c. Commercial lines residential and nonresidential policy  
 112 forms that are generally similar to the basic perils of full

HB 1099

2013

113 coverage obtainable for commercial residential structures and  
114 commercial nonresidential structures in the admitted voluntary  
115 market.

116 d. Personal lines and commercial lines residential  
117 property insurance forms that cover the peril of wind only. Such  
118 ~~The~~ forms are applicable only to residential properties located  
119 in areas eligible for coverage under the coastal account  
120 referred to in sub-subparagraph (b)2.a.

121 e. Commercial lines nonresidential property insurance  
122 forms that cover the peril of wind only. Such ~~The~~ forms are  
123 applicable only to nonresidential properties located in areas  
124 eligible for coverage under the coastal account referred to in  
125 sub-subparagraph (b)2.a.

126 f. The corporation may adopt variations of the policy  
127 forms listed in sub-subparagraphs a.-e. which contain more  
128 restrictive coverage.

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

133 2. Must provide that the corporation adopt a program that  
134 facilitates the depopulation of residential risks in which the  
135 corporation and authorized insurers enter into excess of loss  
136 reinsurance agreements, quota share reinsurance agreements, or  
137 quota share primary insurance agreements for hurricane coverage,  
138 as defined in s. 627.4025(2) ~~(a)~~, for eligible risks, and adopt  
139 property insurance forms for eligible risks which cover the  
140 peril of wind only. The board of governors may limit the

HB 1099

2013

141 corporation's participation in excess of loss reinsurance  
142 agreements, quota share reinsurance agreements, or quota share  
143 primary insurance agreements to those participants capable of  
144 and willing to assume a minimum of 20 percent of the exposure on  
145 the policies subject to such agreement and may specify other  
146 limitations. An agreement in which the corporation retains part  
147 of the risk may provide for the decline of the corporation's  
148 participation over a period not to exceed 5 years.

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

150 ~~(I) "Quota share primary insurance" means an arrangement~~  
151 ~~in which the primary hurricane coverage of an eligible risk is~~  
152 ~~provided in specified percentages by the corporation and an~~  
153 ~~authorized insurer. The corporation and authorized insurer are~~  
154 ~~each solely responsible for a specified percentage of hurricane~~  
155 ~~coverage of an eligible risk as set forth in a quota share~~  
156 ~~primary insurance agreement between the corporation and an~~  
157 ~~authorized insurer and the insurance contract. The~~  
158 ~~responsibility of the corporation or authorized insurer to pay~~  
159 ~~its specified percentage of hurricane losses of an eligible~~  
160 ~~risk, as set forth in the agreement, may not be altered by the~~  
161 ~~inability of the other party to pay its specified percentage of~~  
162 ~~losses. Eligible risks that are provided hurricane coverage~~  
163 ~~through a quota share primary insurance arrangement must be~~  
164 ~~provided policy forms that set forth the obligations of the~~  
165 ~~corporation and authorized insurer under the arrangement,~~  
166 ~~clearly specify the percentages of quota share primary insurance~~  
167 ~~provided by the corporation and authorized insurer, and~~  
168 ~~conspicuously and clearly state that the authorized insurer and~~

HB 1099

2013

169 ~~the corporation may not be held responsible beyond their~~  
170 ~~specified percentage of coverage of hurricane losses.~~

171 ~~(II) "eligible risks" means personal lines residential and~~  
172 ~~commercial lines residential risks that are currently insured by~~  
173 ~~meet the underwriting criteria of the corporation and have been~~  
174 continuously insured by the corporation since on or before July  
175 1, 2013. Effective January 1, 2014, such risks also must have  
176 had eligibility verified pursuant to sub-subparagraph 5.d and  
177 ~~are located in areas that were eligible for coverage by the~~  
178 ~~Florida Windstorm Underwriting Association on January 1, 2002.~~

179 b. Entering into an excess of loss reinsurance agreement,  
180 quota share reinsurance agreement, or quota share primary  
181 insurance agreement between the corporation and an authorized  
182 insurer is voluntary and at the discretion of the authorized  
183 insurer.

184 ~~b. The corporation may enter into quota share primary~~  
185 ~~insurance agreements with authorized insurers at corporation~~  
186 ~~coverage levels of 90 percent and 50 percent.~~

187 ~~e. If the corporation determines that additional coverage~~  
188 ~~levels are necessary to maximize participation in quota share~~  
189 ~~primary insurance agreements by authorized insurers, the~~  
190 ~~corporation may establish additional coverage levels. However,~~  
191 ~~the corporation's quota share primary insurance coverage level~~  
192 ~~may not exceed 90 percent.~~

193 ~~d. Any quota share primary insurance agreement entered~~  
194 ~~into between an authorized insurer and the corporation must~~  
195 ~~provide for a uniform specified percentage of coverage of~~  
196 ~~hurricane losses, by county or territory as set forth by the~~

HB 1099

2013

197 ~~corporation board, for all eligible risks of the authorized~~  
198 ~~insurer covered under the agreement.~~

199 c.e. Any excess of loss reinsurance agreement, quota share  
200 reinsurance agreement, or quota share primary insurance  
201 agreement entered into between an authorized insurer and the  
202 corporation is subject to review and approval by the office.  
203 However, such agreement may ~~shall~~ be authorized only for ~~as to~~  
204 ~~insurance contracts entered into between an authorized insurer~~  
205 ~~and an insured who is already insured by the corporation for~~  
206 ~~wind coverage.~~ If the corporation is the reinsurer, the  
207 insurance policy forms and endorsements offered by the  
208 authorized insurer must be approved by the office, cover all  
209 perils that are the subject of the risk sharing agreement, and  
210 cover at least the same limits as the corporation policies being  
211 replaced.

212 d. The corporation may not share risk for extra  
213 contractual damages at common law or under s. 624.155.

214 e.f. For all eligible risks covered under quota share  
215 primary insurance agreements, the exposure and coverage levels  
216 for both the corporation and authorized insurers must ~~shall~~ be  
217 reported by the corporation to the Florida Hurricane Catastrophe  
218 Fund. For all policies of eligible risks covered under such  
219 agreements, the corporation and the authorized insurer must  
220 maintain complete and accurate records for the purpose of  
221 exposure and loss reimbursement audits as required by fund  
222 rules. The corporation and the authorized insurer shall each  
223 maintain duplicate copies of policy declaration pages and  
224 supporting claims documents.



HB 1099

2013

225 f. To ensure that exposures are accurately reported to the  
226 Florida Hurricane Catastrophe Fund, the corporation and each  
227 insurer participating in the reinsurance program shall report  
228 its exposure under covered policies to the fund as required  
229 under s. 215.555(5)(c). Each report must also specify the  
230 percentage of liability applicable to the corporation and the  
231 percentage applicable to the insurer with respect to quota share  
232 and similar agreements, or the terms of the excess of loss  
233 agreement in the case of such an agreement. Pursuant to its  
234 authority under s. 215.555, the State Board of Administration  
235 shall adopt rules to administer this sub-subparagraph.

236 ~~g. The corporation board shall establish in its plan of~~  
237 ~~operation standards for quota share agreements which ensure that~~  
238 ~~there is no discriminatory application among insurers as to the~~  
239 ~~terms of the agreements, pricing of the agreements, incentive~~  
240 ~~provisions if any, and consideration paid for servicing policies~~  
241 ~~or adjusting claims.~~

242 ~~h. The quota share primary insurance agreement between the~~  
243 ~~corporation and an authorized insurer must set forth the~~  
244 ~~specific terms under which coverage is provided, including, but~~  
245 ~~not limited to, the sale and servicing of policies issued under~~  
246 ~~the agreement by the insurance agent of the authorized insurer~~  
247 ~~producing the business, the reporting of information concerning~~  
248 ~~eligible risks, the payment of premium to the corporation, and~~  
249 ~~arrangements for the adjustment and payment of hurricane claims~~  
250 ~~incurred on eligible risks by the claims adjuster and personnel~~  
251 ~~of the authorized insurer. Entering into a quota sharing~~  
252 ~~insurance agreement between the corporation and an authorized~~

253 | ~~insurer is voluntary and at the discretion of the authorized~~  
 254 | ~~insurer.~~

255 |       3.~~a~~. May provide that the corporation may employ or  
 256 | otherwise contract with individuals or other entities to provide  
 257 | administrative or professional services that may be appropriate  
 258 | to effectuate the plan.

259 |       a. The corporation may borrow funds by issuing bonds or by  
 260 | incurring other indebtedness, and shall have other powers  
 261 | reasonably necessary to effectuate the requirements of this  
 262 | subsection, including, without limitation, the power to issue  
 263 | bonds and incur other indebtedness in order to refinance  
 264 | outstanding bonds or other indebtedness. The corporation may  
 265 | seek judicial validation of its bonds or other indebtedness  
 266 | under chapter 75. The corporation may issue bonds or incur other  
 267 | indebtedness, or have bonds issued on its behalf by a unit of  
 268 | local government pursuant to subparagraph (q)2. in the absence  
 269 | of a hurricane or other weather-related event, upon a  
 270 | determination by the corporation, subject to approval by the  
 271 | office, that such action would enable it to efficiently meet the  
 272 | financial obligations of the corporation and that such  
 273 | financings are reasonably necessary to effectuate the  
 274 | requirements of this subsection. The corporation may take all  
 275 | actions needed to facilitate tax-free status for such bonds or  
 276 | indebtedness, including formation of trusts or other affiliated  
 277 | entities. The corporation may pledge assessments, projected  
 278 | recoveries from the Florida Hurricane Catastrophe Fund, other  
 279 | reinsurance recoverables, policyholder surcharges and other  
 280 | surcharges, and other funds available to the corporation as

HB 1099

2013

281 security for bonds or other indebtedness. In recognition of s.  
282 10, Art. I of the State Constitution, prohibiting the impairment  
283 of obligations of contracts, it is the intent of the Legislature  
284 that ~~no~~ action may not be taken whose purpose is to impair any  
285 bond indenture or financing agreement or any revenue source  
286 committed by contract to such bond or other indebtedness.

287 b. To ensure that the corporation is operating in an  
288 efficient and economic manner while providing quality service to  
289 policyholders, applicants, and agents, the board shall  
290 commission an independent third-party consultant having  
291 expertise in insurance company management or insurance company  
292 management consulting to prepare a report and make  
293 recommendations on the relative costs and benefits of  
294 outsourcing various policy issuance and service functions to  
295 private servicing carriers or entities performing similar  
296 functions in the private market for a fee, rather than  
297 performing such functions in-house. In making such  
298 recommendations, the consultant shall consider how other  
299 residual markets, both in this state and around the country,  
300 outsource appropriate functions or use servicing carriers to  
301 better match expenses with revenues that fluctuate based on a  
302 widely varying policy count. The report must be completed by  
303 July 1, 2012. Upon receiving the report, the board shall develop  
304 a plan to implement the report and submit the plan for review,  
305 modification, and approval to the Financial Services Commission.  
306 Upon the commission's approval of the plan, the board shall  
307 begin implementing the plan by January 1, 2013.

308 4. Must require that the corporation operate subject to

HB 1099

2013

309 the supervision and approval of a board of governors consisting  
310 of eight individuals who are residents of this state and who  
311 are, from different geographical areas of the ~~this~~ state.

312 a. The Governor, the Chief Financial Officer, the  
313 President of the Senate, and the Speaker of the House of  
314 Representatives shall each appoint two members of the board. At  
315 least one of the two members appointed by each appointing  
316 officer must have demonstrated expertise in insurance and be ~~is~~  
317 deemed to be within the scope of the exemption provided under ~~in~~  
318 s. 112.313(7)(b). The Chief Financial Officer shall designate  
319 one of the appointees as chair. All board members serve at the  
320 pleasure of the appointing officer. All members of the board are  
321 subject to removal at will by the officers who appointed them.  
322 All board members, including the chair, shall ~~must~~ be appointed  
323 ~~to serve~~ for 3-year terms beginning annually on a date  
324 designated by the plan. However, for the first term beginning on  
325 or after July 1, 2009, each appointing officer shall appoint one  
326 member of the board for a 2-year term and one member for a 3-  
327 year term. A board vacancy shall be filled for the unexpired  
328 term by the appointing officer. The Chief Financial Officer  
329 shall appoint a technical advisory group to provide information  
330 and advice to the board in connection with the board's duties  
331 under this subsection. The executive director and senior  
332 managers of the corporation shall be engaged by the board and  
333 serve at the pleasure of the board. Any executive director  
334 appointed on or after July 1, 2006, is subject to confirmation  
335 by the Senate. The executive director is responsible for  
336 employing other staff as the corporation may require, subject to

337 review and concurrence by the board.

338       b. The board shall create a Market Accountability Advisory  
339 Committee to assist the corporation in developing awareness of  
340 its rates and its customer and agent service levels in  
341 relationship to the voluntary market insurers writing similar  
342 coverage.

343       (I) The members of the advisory committee consist of the  
344 following 11 persons, one of whom must be elected chair by the  
345 members of the committee: four representatives, one appointed by  
346 the Florida Association of Insurance Agents, one by the Florida  
347 Association of Insurance and Financial Advisors, one by the  
348 Professional Insurance Agents of Florida, and one by the Latin  
349 American Association of Insurance Agencies; three  
350 representatives appointed by the insurers with the three highest  
351 voluntary market share of residential property insurance  
352 business in the state; one representative from the Office of  
353 Insurance Regulation; one consumer appointed by the board who is  
354 insured by the corporation at the time of appointment to the  
355 committee; one representative appointed by the Florida  
356 Association of Realtors; and one representative appointed by the  
357 Florida Bankers Association. All members shall be appointed to  
358 3-year terms and may serve for consecutive terms.

359       (II) The committee shall report to the corporation at  
360 each board meeting on insurance market issues that ~~which~~ may  
361 include rates and rate competition within ~~with~~ the voluntary  
362 market; service, including policy issuance, claims processing,  
363 and general responsiveness to policyholders, applicants, and  
364 agents; and matters relating to depopulation.

HB 1099

2013

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

367 a. Subject to s. 627.3517, with respect to personal lines  
368 residential risks, if the risk is offered new or renewal  
369 coverage from an authorized insurer at the insurer's approved  
370 rate under a standard policy including wind coverage or, if  
371 consistent with the insurer's underwriting rules ~~as~~ filed with  
372 the office, a new or renewal basic policy including wind  
373 coverage, for a new or renewal application to the corporation  
374 for coverage, the risk is not eligible for any new or renewal  
375 policy issued by the corporation unless the premium for coverage  
376 from the authorized insurer is more than 15 percent greater than  
377 the premium for comparable coverage from the corporation. If the  
378 risk is not able to obtain such offer, the risk is eligible for  
379 a standard policy including wind coverage or a basic policy  
380 including wind coverage issued by the corporation; however, if  
381 the risk could not be insured under a standard policy including  
382 wind coverage regardless of market conditions, the risk is  
383 eligible for a basic policy including wind coverage unless  
384 rejected under subparagraph 8. ~~However, a policyholder of the~~  
385 ~~corporation or a policyholder removed from the corporation~~  
386 ~~through an assumption agreement until the end of the assumption~~  
387 ~~period remains eligible for coverage from the corporation~~  
388 ~~regardless of any offer of coverage from an authorized insurer~~  
389 ~~or surplus lines insurer.~~ The corporation shall determine the  
390 type of policy to be provided on the basis of objective  
391 standards specified in the underwriting manual and based on  
392 generally accepted underwriting practices.

393 (I) If the risk accepts an offer of coverage through the  
 394 market assistance plan or through a mechanism established by the  
 395 corporation before a policy is issued to the risk by the  
 396 corporation or during the first 30 days of coverage by the  
 397 corporation, and the producing agent who submitted the  
 398 application to the plan or to the corporation is not currently  
 399 appointed by the insurer, the insurer shall:

400 (A) Pay to the producing agent of record ~~of the policy~~ for  
 401 the first year, an amount that is the greater of the insurer's  
 402 usual and customary commission for the type of policy written or  
 403 a fee equal to the usual and customary commission of the  
 404 corporation; or

405 (B) Offer to allow the producing agent of record ~~of the~~  
 406 ~~policy~~ to continue servicing the policy for at least 1 year and  
 407 offer to pay the agent the greater of the insurer's or the  
 408 corporation's usual and customary commission for the type of  
 409 policy written.

410  
 411 If the producing agent is unwilling or unable to accept  
 412 appointment, the new insurer shall pay the agent in accordance  
 413 with sub-sub-sub-subparagraph (A).

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

418 (A) Pay to the producing agent of record, for the first  
 419 year, an amount that is the greater of the insurer's usual and  
 420 customary commission for the type of policy written or a fee

HB 1099

2013

421 equal to the usual and customary commission of the corporation;  
422 or

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

427  
428 If the producing agent is unwilling or unable to accept  
429 appointment, the new insurer shall pay the agent in accordance  
430 with sub-sub-sub-subparagraph (A).

431 b. With respect to commercial lines residential risks, for  
432 a new application to the corporation for coverage, if the risk  
433 is offered coverage under a policy including wind coverage from  
434 an authorized insurer at its approved rate, the risk is not  
435 eligible for a policy issued by the corporation unless the  
436 premium for coverage from the authorized insurer is more than 15  
437 percent greater than the premium for comparable coverage from  
438 the corporation. If the risk is not able to obtain ~~any~~ such  
439 offer, the risk is eligible for a policy including wind coverage  
440 issued by the corporation. However, a policyholder of the  
441 corporation or a policyholder removed from the corporation  
442 through an assumption agreement until the end of the assumption  
443 period remains eligible for coverage from the corporation  
444 regardless of an offer of coverage from an authorized insurer or  
445 surplus lines insurer.

446 (I) If the risk accepts an offer of coverage through the  
447 market assistance plan or through a mechanism established by the  
448 corporation before a policy is issued to the risk by the



449 corporation or during the first 30 days of coverage by the  
 450 corporation, and the producing agent who submitted the  
 451 application to the plan or the corporation is not currently  
 452 appointed by the insurer, the insurer shall:

453 (A) Pay to the producing agent of record ~~of the policy,~~  
 454 for the first year, an amount that is the greater of the  
 455 insurer's usual and customary commission for the type of policy  
 456 written or a fee equal to the usual and customary commission of  
 457 the corporation; or

458 (B) Offer to allow the producing agent of record ~~of the~~  
 459 ~~policy~~ to continue servicing the policy for at least 1 year and  
 460 offer to pay the agent the greater of the insurer's or the  
 461 corporation's usual and customary commission for the type of  
 462 policy written.

463  
 464 If the producing agent is unwilling or unable to accept  
 465 appointment, the new insurer shall pay the agent in accordance  
 466 with sub-sub-sub-subparagraph (A).

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

471 (A) Pay to the producing agent of record, for the first  
 472 year, an amount that is the greater of the insurer's usual and  
 473 customary commission for the type of policy written or a fee  
 474 equal to the usual and customary commission of the corporation;  
 475 or

476 (B) Offer to allow the producing agent of record to

HB 1099

2013

477 | continue servicing the policy for at least 1 year and offer to  
478 | pay the agent the greater of the insurer's or the corporation's  
479 | usual and customary commission for the type of policy written.

480

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

484 |       c. For purposes of determining comparable coverage under  
485 | sub-subparagraphs a. and b., the comparison must be based on  
486 | those forms and coverages that are reasonably comparable. The  
487 | corporation may rely on a determination of comparable coverage  
488 | and premium made by the producing agent who submits the  
489 | application to the corporation, made in the agent's capacity as  
490 | the corporation's agent. A comparison may be made ~~solely~~ of the  
491 | premium with respect to the main building or structure only on  
492 | the following basis: the same coverage A or other building  
493 | limits; the same percentage hurricane deductible that applies on  
494 | an annual basis or that applies to each hurricane for commercial  
495 | residential property; the same percentage of ordinance and law  
496 | coverage, if the same limit is offered by both the corporation  
497 | and the authorized insurer; the same mitigation credits, to the  
498 | extent the same types of credits are offered both by the  
499 | corporation and the authorized insurer; the same method for loss  
500 | payment, such as replacement cost or actual cash value, if the  
501 | same method is offered both by the corporation and the  
502 | authorized insurer in accordance with underwriting rules; and  
503 | any other form or coverage that is reasonably comparable as  
504 | determined by the board. If an application is submitted to the

505 corporation for wind-only coverage in the coastal account, the  
506 premium for the corporation's wind-only policy plus the premium  
507 for the ex-wind policy that is offered by an authorized insurer  
508 to the applicant must be compared to the premium for multiperil  
509 coverage offered by an authorized insurer, subject to the  
510 standards for comparison specified in this subparagraph. If the  
511 corporation or the applicant requests from the authorized  
512 insurer a breakdown of the premium of the offer by types of  
513 coverage so that a comparison may be made by the corporation or  
514 its agent and the authorized insurer refuses or is unable to  
515 provide such information, the corporation may treat the offer as  
516 not being an offer of coverage from an authorized insurer at the  
517 insurer's approved rate.

518 d. Effective January 1, 2014, the corporation shall  
519 implement appropriate eligibility procedures and operational  
520 requirements to ensure that only risks that are eligible for  
521 coverage from the corporation receive such coverage. The  
522 procedures and requirements so implemented must, at a minimum,  
523 include the use of a clearinghouse for new applications which  
524 allows licensed insurers and agents to voluntarily write risks  
525 that have made application for coverage to the corporation and a  
526 mechanism to make renewal offers for existing policies available  
527 to licensed insurers and agents to voluntarily write risks  
528 insured by the corporation. Any risk insured by the corporation  
529 for 3 or more consecutive years may not be renewed and must  
530 submit a new application for coverage. The corporation may  
531 create an appropriate agency or agent mechanism to place new and  
532 renewal business with authorized insurers. Compliance with these

533 | eligibility procedures and operational requirements is a  
534 | condition of coverage by the corporation.

535 |         6. Must include rules for classifications of risks and  
536 | rates.

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

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

550 |             a. Whether the likelihood of a loss for the individual  
551 | risk is substantially higher than for other risks of the same  
552 | class; and

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

555 |

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

559 |         9. Must provide that the corporation make its best efforts  
560 | to procure catastrophe reinsurance at reasonable rates, to cover

561 its projected 100-year probable maximum loss as determined by  
562 the board of governors.

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

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

577 12. May establish, subject to approval by the office,  
578 different eligibility requirements and operational procedures  
579 for any line or type of coverage for any specified county or  
580 area if the board determines that such changes are justified due  
581 to the voluntary market being sufficiently stable and  
582 competitive in such area or for such line or type of coverage  
583 and that consumers who, in good faith, are unable to obtain  
584 insurance through the voluntary market through ordinary methods  
585 continue to have access to coverage from the corporation. If  
586 coverage is sought in connection with a real property transfer,  
587 the requirements and procedures may not provide an effective  
588 date of coverage later than the date of the closing of the

HB 1099

2013

589 transfer as established by the transferor, the transferee, and,  
590 if applicable, the lender.

591 13. Must provide that, with respect to the coastal  
592 account, any assessable insurer that has ~~with~~ a surplus as to  
593 policyholders of \$25 million or less writing 25 percent or more  
594 of its total countrywide property insurance premiums in this  
595 state may petition the office, within the first 90 days of each  
596 calendar year, to qualify as a limited apportionment company. A  
597 regular assessment levied by the corporation on a limited  
598 apportionment company for a deficit incurred by the corporation  
599 for the coastal account may be paid to the corporation on a  
600 monthly basis as the assessments are collected by the limited  
601 apportionment company from its insureds. The, ~~but a~~ limited  
602 apportionment company must begin collecting the regular  
603 assessments within ~~not later than~~ 90 days after the regular  
604 assessments are levied by the corporation, and the regular  
605 assessments must be paid in full within 15 months after being  
606 levied by the corporation. A limited apportionment company shall  
607 collect from its policyholders any emergency assessment imposed  
608 under sub-subparagraph (b)3.d. The plan must provide that, if  
609 the office determines that any regular assessment will result in  
610 an impairment of the surplus of a limited apportionment company,  
611 the office may direct that all or part of such assessment be  
612 deferred as provided in subparagraph (q)4. However, an emergency  
613 assessment to be collected from policyholders under sub-  
614 subparagraph (b)3.d. may not be limited or deferred.

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

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

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

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

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

631 18. May require commercial property to meet specified  
632 hurricane mitigation construction features as a condition of  
633 eligibility for coverage.

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

643 20. As of January 1, 2012, must require that the agent  
644 obtain from an applicant for coverage from the corporation an

645 acknowledgment signed by the applicant, which includes, at a  
646 minimum, the following statement:

647  
648 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE  
649 AND ASSESSMENT LIABILITY:

650  
651 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE  
652 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A  
653 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,  
654 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND  
655 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE  
656 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT  
657 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA  
658 LEGISLATURE.

659 2. I ALSO UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY  
660 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER  
661 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE  
662 FLORIDA LEGISLATURE.

663 3. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE  
664 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE  
665 STATE OF FLORIDA.

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

670 b. The signed acknowledgment form creates a conclusive  
671 presumption that the policyholder understood and accepted his or  
672 her potential surcharge and assessment liability as a



HB 1099

2013

673 | policyholder of the corporation.

674 | Section 4. This act shall take effect July 1, 2013.