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LEGISLATIVE ACTION

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| Senate | . | House |
| Comm: FAV | . | |
| 03/07/2013 | . | |
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The Committee on Banking and Insurance (Richter) recommended the following:

Senate Amendment (with directory and title amendments)

Between lines 1851 and 1852
insert:

Section 9. Effective October 1, 2013, paragraph (e) of subsection (6) of section 627.351, Florida Statutes, is amended to read

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(e) The corporation is subject to s. 287.057 for the purchase of commodities and contractual services except as otherwise provided in this paragraph. Services provided by



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13 tradepersons or technical experts to assist a licensed adjuster
14 in the evaluation of individual claims are not subject to the
15 procurement requirements of this section. Additionally, the
16 procurement of financial services providers and underwriters
17 must be made pursuant to s. 627.3513 Purchases that equal or
18 exceed \$2,500, but are less than \$25,000, shall be made by
19 receipt of written quotes, written record of telephone quotes,
20 or informal bids, whenever practical. The procurement of goods
21 or services valued at or over \$25,000 shall be subject to
22 competitive solicitation, except in situations where the goods
23 or services are provided by a sole source or are deemed an
24 emergency purchase; the services are exempted from competitive
25 solicitation requirements under s. 287.057(3)(f); or the
26 procurement of services is subject to s. 627.3513. Justification
27 for the sole-sourcing or emergency procurement must be
28 documented. Contracts for goods or services valued at or more
29 than ~~over~~ \$100,000 are subject to approval by the board.

30 1. The corporation is an agency for the purposes of s.
31 287.057, except for subsection (22) of that section for which
32 the corporation is an eligible user.

33 a. The authority of the Department of Management Services
34 and the Chief Financial Officer under s. 287.057 extends to the
35 corporation as if the corporation were an agency.

36 b. The executive director of the corporation is the agency
37 head under s. 287.057, except for resolution of bid protests for
38 which the board would serve as the agency head.

39 2. The corporation must provide notice of a decision or
40 intended decision concerning a solicitation, contract award, or
41 exceptional purchase by electronic posting. Such notice must



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42 contain the following statement: "Failure to file a protest
43 within the time prescribed in this section constitutes a waiver
44 of proceedings."

45 a. A person adversely affected by the corporation's
46 decision or intended decision to award a contract pursuant to s.
47 287.057(1) or s. 287.057(3)(c) who elects to challenge the
48 decision must file a written notice of protest with the
49 executive director of the corporation within 72 hours after the
50 corporation posts a notice of its decision or intended decision.
51 For a protest of the terms, conditions, and specifications
52 contained in a solicitation, including any provisions governing
53 the methods for ranking bids, proposals, replies, awarding
54 contracts, reserving rights of further negotiation, or modifying
55 or amending any contract, the notice of protest must be filed in
56 writing within 72 hours after the posting of the solicitation.
57 Saturdays, Sundays, and state holidays are excluded in the
58 computation of the 72-hour time period.

59 b. A formal written protest must be filed within 10 days
60 after the date the notice of protest is filed. The formal
61 written protest must state with particularity the facts and law
62 upon which the protest is based. Upon receipt of a formal
63 written protest that has been timely filed, the corporation must
64 stop the solicitation or contract award process until the
65 subject of the protest is resolved by final board action unless
66 the executive director sets forth in writing particular facts
67 and circumstances that require the continuance of the
68 solicitation or contract award process without delay in order to
69 avoid an immediate and serious danger to the public health,
70 safety, or welfare. The corporation must provide an opportunity



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71 to resolve the protest by mutual agreement between the parties
72 within 7 business days after receipt of the formal written
73 protest. If the subject of a protest is not resolved by mutual
74 agreement within 7 business days, the corporation's board must
75 place the protest on the agenda and resolve it at its next
76 regularly scheduled meeting. The protest must be heard by the
77 board at a publicly noticed meeting in accordance with
78 procedures established by the board.

79 c. In a protest of an invitation-to-bid or request-for-
80 proposals procurement, submissions made after the bid or
81 proposal opening which amend or supplement the bid or proposal
82 may not be considered. In protesting an invitation-to-negotiate
83 procurement, submissions made after the corporation announces
84 its intent to award a contract, reject all replies, or withdraw
85 the solicitation that amends or supplements the reply may not be
86 considered. Unless otherwise provided by law, the burden of
87 proof rests with the party protesting the corporation's action.
88 In a competitive-procurement protest, other than a rejection of
89 all bids, proposals, or replies, the corporation's board must
90 conduct a de novo proceeding to determine whether the
91 corporation's proposed action is contrary to the corporation's
92 governing statutes, the corporation's rules or policies, or the
93 solicitation specifications. The standard of proof for the
94 proceeding is whether the corporation's action was clearly
95 erroneous, contrary to competition, arbitrary, or capricious. In
96 any bid-protest proceeding contesting an intended corporation
97 action to reject all bids, proposals, or replies, the standard
98 of review by the board is whether the corporation's intended
99 action is illegal, arbitrary, dishonest, or fraudulent.



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100 d. Failure to file a notice of protest or failure to file a
101 formal written protest constitutes a waiver of proceedings.

102 3. Contract actions and decisions by the board under this
103 paragraph are final. Any further legal remedy must be made in
104 the Circuit Court of Leon County.

105 Section 10. The purchase of commodities and contractual
106 services by Citizens Property Insurance Corporation commenced
107 before October 1, 2013, is governed by the law in effect on
108 September 30, 2013.

109
110 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

111 And the directory clause is amended as follows:

112 Delete line 633

113 and insert:

114 Section 8. Paragraphs (a), (b), (c), (e), (m), and (q) of

115
116 ===== T I T L E A M E N D M E N T =====

117 And the title is amended as follows:

118 Delete line 59

119 and insert:

120 secured by a surplus note; revising provisions
121 relating to purchases by the corporation; providing
122 that the corporation is subject to state agency
123 purchasing requirements; requiring the corporation to
124 provide notice of purchasing decisions; providing
125 procedures for protesting such decisions; providing
126 applicability; revising the corporation's