

Amendment No.

CHAMBER ACTION

Senate

House

.

Representative Nelson offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

Section 1. Subsection (4) of section 626.752, Florida Statutes, is amended to read:

626.752 Exchange of business.—

(4) The foregoing limitations and restrictions shall not be construed and shall not apply to the placing of surplus lines business under the provisions of part VIII or to the activities of Citizens Property Insurance Corporation in placing new and renewal business with authorized insurers in accordance with s. 627.3518.

Section 2. Paragraph (c) of subsection (6) of section 627.351, Florida Statutes, is amended to read:

627.351 Insurance risk apportionment plans.—

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17 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

19 1. Must provide for adoption of residential property and  
20 casualty insurance policy forms and commercial residential and  
21 nonresidential property insurance forms, which must be approved  
22 by the office before use. The corporation shall adopt the  
23 following policy forms:

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

28 b. Basic personal lines policy forms that are policies  
29 similar to an HO-8 policy or a dwelling fire policy that provide  
30 coverage meeting the requirements of the secondary mortgage  
31 market, but which is more limited than the coverage under a  
32 standard policy.

33 c. Commercial lines residential and nonresidential policy  
34 forms that are generally similar to the basic perils of full  
35 coverage obtainable for commercial residential structures and  
36 commercial nonresidential structures in the admitted voluntary  
37 market.

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

43 e. Commercial lines nonresidential property insurance  
44 forms that cover the peril of wind only. The forms are

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45 applicable only to nonresidential properties located in areas  
46 eligible for coverage under the coastal account referred to in  
47 sub-subparagraph (b)2.a.

48 f. The corporation may adopt variations of the policy  
49 forms listed in sub-subparagraphs a.-e. which contain more  
50 restrictive coverage.

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

55 2. Must provide that the corporation adopt a program in  
56 which the corporation and authorized insurers enter into quota  
57 share primary insurance agreements for hurricane coverage, as  
58 defined in s. 627.4025(2)(a), for eligible risks, and adopt  
59 property insurance forms for eligible risks which cover the  
60 peril of wind only.

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

62 (I) "Quota share primary insurance" means an arrangement  
63 in which the primary hurricane coverage of an eligible risk is  
64 provided in specified percentages by the corporation and an  
65 authorized insurer. The corporation and authorized insurer are  
66 each solely responsible for a specified percentage of hurricane  
67 coverage of an eligible risk as set forth in a quota share  
68 primary insurance agreement between the corporation and an  
69 authorized insurer and the insurance contract. The  
70 responsibility of the corporation or authorized insurer to pay  
71 its specified percentage of hurricane losses of an eligible  
72 risk, as set forth in the agreement, may not be altered by the

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73 inability of the other party to pay its specified percentage of  
74 losses. Eligible risks that are provided hurricane coverage  
75 through a quota share primary insurance arrangement must be  
76 provided policy forms that set forth the obligations of the  
77 corporation and authorized insurer under the arrangement,  
78 clearly specify the percentages of quota share primary insurance  
79 provided by the corporation and authorized insurer, and  
80 conspicuously and clearly state that the authorized insurer and  
81 the corporation may not be held responsible beyond their  
82 specified percentage of coverage of hurricane losses.

83 (II) "Eligible risks" means personal lines residential and  
84 commercial lines residential risks that meet the underwriting  
85 criteria of the corporation and are located in areas that were  
86 eligible for coverage by the Florida Windstorm Underwriting  
87 Association on January 1, 2002.

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

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

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

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101 corporation board, for all eligible risks of the authorized  
102 insurer covered under the agreement.

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

109 f. For all eligible risks covered under quota share  
110 primary insurance agreements, the exposure and coverage levels  
111 for both the corporation and authorized insurers shall be  
112 reported by the corporation to the Florida Hurricane Catastrophe  
113 Fund. For all policies of eligible risks covered under such  
114 agreements, the corporation and the authorized insurer must  
115 maintain complete and accurate records for the purpose of  
116 exposure and loss reimbursement audits as required by fund  
117 rules. The corporation and the authorized insurer shall each  
118 maintain duplicate copies of policy declaration pages and  
119 supporting claims documents.

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

126 h. The quota share primary insurance agreement between the  
127 corporation and an authorized insurer must set forth the  
128 specific terms under which coverage is provided, including, but

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129 not limited to, the sale and servicing of policies issued under  
130 the agreement by the insurance agent of the authorized insurer  
131 producing the business, the reporting of information concerning  
132 eligible risks, the payment of premium to the corporation, and  
133 arrangements for the adjustment and payment of hurricane claims  
134 incurred on eligible risks by the claims adjuster and personnel  
135 of the authorized insurer. Entering into a quota sharing  
136 insurance agreement between the corporation and an authorized  
137 insurer is voluntary and at the discretion of the authorized  
138 insurer.

139 3.a. May provide that the corporation may employ or  
140 otherwise contract with individuals or other entities to provide  
141 administrative or professional services that may be appropriate  
142 to effectuate the plan. The corporation may borrow funds by  
143 issuing bonds or by incurring other indebtedness, and shall have  
144 other powers reasonably necessary to effectuate the requirements  
145 of this subsection, including, without limitation, the power to  
146 issue bonds and incur other indebtedness in order to refinance  
147 outstanding bonds or other indebtedness. The corporation may  
148 seek judicial validation of its bonds or other indebtedness  
149 under chapter 75. The corporation may issue bonds or incur other  
150 indebtedness, or have bonds issued on its behalf by a unit of  
151 local government pursuant to subparagraph (q)2. in the absence  
152 of a hurricane or other weather-related event, upon a  
153 determination by the corporation, subject to approval by the  
154 office, that such action would enable it to efficiently meet the  
155 financial obligations of the corporation and that such  
156 financings are reasonably necessary to effectuate the

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157 requirements of this subsection. The corporation may take all  
158 actions needed to facilitate tax-free status for such bonds or  
159 indebtedness, including formation of trusts or other affiliated  
160 entities. The corporation may pledge assessments, projected  
161 recoveries from the Florida Hurricane Catastrophe Fund, other  
162 reinsurance recoverables, policyholder surcharges and other  
163 surcharges, and other funds available to the corporation as  
164 security for bonds or other indebtedness. In recognition of s.  
165 10, Art. I of the State Constitution, prohibiting the impairment  
166 of obligations of contracts, it is the intent of the Legislature  
167 that no action be taken whose purpose is to impair any bond  
168 indenture or financing agreement or any revenue source committed  
169 by contract to such bond or other indebtedness.

170       b. To ensure that the corporation is operating in an  
171 efficient and economic manner while providing quality service to  
172 policyholders, applicants, and agents, the board shall  
173 commission an independent third-party consultant having  
174 expertise in insurance company management or insurance company  
175 management consulting to prepare a report and make  
176 recommendations on the relative costs and benefits of  
177 outsourcing various policy issuance and service functions to  
178 private servicing carriers or entities performing similar  
179 functions in the private market for a fee, rather than  
180 performing such functions in-house. In making such  
181 recommendations, the consultant shall consider how other  
182 residual markets, both in this state and around the country,  
183 outsource appropriate functions or use servicing carriers to  
184 better match expenses with revenues that fluctuate based on a

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185 widely varying policy count. The report must be completed by  
186 July 1, 2012. Upon receiving the report, the board shall develop  
187 a plan to implement the report and submit the plan for review,  
188 modification, and approval to the Financial Services Commission.  
189 Upon the commission's approval of the plan, the board shall  
190 begin implementing the plan by January 1, 2013.

191 4. Must require that the corporation operate subject to  
192 the supervision and approval of a board of governors consisting  
193 of eight individuals who are residents of this state and from  
194 different geographical areas of this state.

195 a. The Governor, the Chief Financial Officer, the  
196 President of the Senate, and the Speaker of the House of  
197 Representatives shall each appoint two members of the board. At  
198 least one of the two members appointed by each appointing  
199 officer must have demonstrated expertise in insurance and is  
200 deemed to be within the scope of the exemption provided in s.  
201 112.313(7)(b). The Chief Financial Officer shall designate one  
202 of the appointees as chair. All board members serve at the  
203 pleasure of the appointing officer. All members of the board are  
204 subject to removal at will by the officers who appointed them.  
205 All board members, including the chair, must be appointed to  
206 serve for 3-year terms beginning annually on a date designated  
207 by the plan. However, for the first term beginning on or after  
208 July 1, 2009, each appointing officer shall appoint one member  
209 of the board for a 2-year term and one member for a 3-year term.  
210 A board vacancy shall be filled for the unexpired term by the  
211 appointing officer. The Chief Financial Officer shall appoint a  
212 technical advisory group to provide information and advice to

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213 the board in connection with the board's duties under this  
214 subsection. The executive director and senior managers of the  
215 corporation shall be engaged by the board and serve at the  
216 pleasure of the board. Any executive director appointed on or  
217 after July 1, 2006, is subject to confirmation by the Senate.  
218 The executive director is responsible for employing other staff  
219 as the corporation may require, subject to review and  
220 concurrence by the board.

221 b. The board shall create a Market Accountability Advisory  
222 Committee to assist the corporation in developing awareness of  
223 its rates and its customer and agent service levels in  
224 relationship to the voluntary market insurers writing similar  
225 coverage.

226 (I) The members of the advisory committee consist of the  
227 following 11 persons, one of whom must be elected chair by the  
228 members of the committee: four representatives, one appointed by  
229 the Florida Association of Insurance Agents, one by the Florida  
230 Association of Insurance and Financial Advisors, one by the  
231 Professional Insurance Agents of Florida, and one by the Latin  
232 American Association of Insurance Agencies; three  
233 representatives appointed by the insurers with the three highest  
234 voluntary market share of residential property insurance  
235 business in the state; one representative from the Office of  
236 Insurance Regulation; one consumer appointed by the board who is  
237 insured by the corporation at the time of appointment to the  
238 committee; one representative appointed by the Florida  
239 Association of Realtors; and one representative appointed by the  
240 Florida Bankers Association. All members shall be appointed to

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241 3-year terms and may serve for consecutive terms.

242 (II) The committee shall report to the corporation at each  
243 board meeting on insurance market issues which may include rates  
244 and rate competition with the voluntary market; service,  
245 including policy issuance, claims processing, and general  
246 responsiveness to policyholders, applicants, and agents; and  
247 matters relating to depopulation.

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

250 a. Subject to s. 627.3517, with respect to personal lines  
251 residential risks, if the risk is offered coverage from an  
252 authorized insurer at the insurer's approved rate under a  
253 standard policy including wind coverage or, if consistent with  
254 the insurer's underwriting rules as filed with the office, a  
255 basic policy including wind coverage, for a new application to  
256 the corporation for coverage, the risk is not eligible for any  
257 policy issued by the corporation unless the premium for coverage  
258 from the authorized insurer is more than 15 percent greater than  
259 the premium for comparable coverage from the corporation.

260 Whenever an offer of coverage for a personal lines residential  
261 risk is received for a policyholder of the corporation at  
262 renewal from an authorized insurer, if the offer is equal to or  
263 less than the corporation's renewal premium for comparable  
264 coverage, the risk is not eligible for coverage with the  
265 corporation. If the risk is not able to obtain such offer, the  
266 risk is eligible for a standard policy including wind coverage  
267 or a basic policy including wind coverage issued by the  
268 corporation; however, if the risk could not be insured under a

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269 standard policy including wind coverage regardless of market  
270 conditions, the risk is eligible for a basic policy including  
271 wind coverage unless rejected under subparagraph 8. However, a  
272 ~~policyholder of the corporation or a policyholder removed from~~  
273 the corporation through an assumption agreement remains eligible  
274 for coverage from the corporation until the end of the  
275 assumption period ~~remains eligible for coverage from the~~  
276 ~~corporation regardless of any offer of coverage from an~~  
277 ~~authorized insurer or surplus lines insurer~~. The corporation  
278 shall determine the type of policy to be provided on the basis  
279 of objective standards specified in the underwriting manual and  
280 based on 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 other than a plan established by s. 627.3518, before  
284 a policy is issued to the risk by the corporation or during the  
285 first 30 days of coverage by the corporation, and the producing  
286 agent who submitted the application to the plan or to the  
287 corporation is not currently appointed by the insurer, the  
288 insurer shall:

289 (A) Pay to the producing agent of record of the policy for  
290 the first year, an amount that is the greater of the insurer's  
291 usual and customary commission for the type of policy written or  
292 a fee equal to the usual and customary commission of the  
293 corporation; or

294 (B) Offer to allow the producing agent of record of the  
295 policy to continue servicing the policy for at least 1 year and  
296 offer to pay the agent the greater of the insurer's or the

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297 corporation's usual and customary commission for the type of  
298 policy written.

299  
300 If the producing agent is unwilling or unable to accept  
301 appointment, the new insurer shall pay the agent in accordance  
302 with sub-sub-sub-subparagraph (A).

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

307 (A) Pay to the producing agent of record, for the first  
308 year, an amount that is the greater of the insurer's usual and  
309 customary commission for the type of policy written or a fee  
310 equal to the usual and customary commission of the corporation;  
311 or

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

316  
317 If the producing agent is unwilling or unable to accept  
318 appointment, the new insurer shall pay the agent in accordance  
319 with sub-sub-sub-subparagraph (A).

320 b. With respect to commercial lines residential risks, for  
321 a new application to the corporation for coverage, if the risk  
322 is offered coverage under a policy including wind coverage from  
323 an authorized insurer at its approved rate, the risk is not  
324 eligible for a policy issued by the corporation unless the

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325 premium for coverage from the authorized insurer is more than 15  
326 percent greater than the premium for comparable coverage from  
327 the corporation. Whenever an offer of coverage for a commercial  
328 lines residential risk is received for a policyholder of the  
329 corporation at renewal from an authorized insurer, if the offer  
330 is equal to or less than the corporation's renewal premium for  
331 comparable coverage, the risk is not eligible for coverage with  
332 the corporation. If the risk is not able to obtain any such  
333 offer, the risk is eligible for a policy including wind coverage  
334 issued by the corporation. However, ~~a policyholder of the~~  
335 ~~corporation or~~ a policyholder removed from the corporation  
336 through an assumption agreement remains eligible for coverage  
337 from the corporation until the end of the assumption period  
338 ~~remains eligible for coverage from the corporation regardless of~~  
339 ~~an offer of coverage from an authorized insurer or surplus lines~~  
340 ~~insurer.~~

341 (I) If the risk accepts an offer of coverage through the  
342 market assistance plan or through a mechanism established by the  
343 corporation other than a plan established by s. 627.3518, before  
344 a policy is issued to the risk by the corporation or during the  
345 first 30 days of coverage by the corporation, and the producing  
346 agent who submitted the application to the plan or the  
347 corporation is not currently appointed by the insurer, the  
348 insurer shall:

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

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353 the corporation; or

354 (B) Offer to allow the producing agent of record of the  
355 policy to continue servicing the policy for at least 1 year and  
356 offer to pay the agent the greater of the insurer's or the  
357 corporation's usual and customary commission for the type of  
358 policy written.

359  
360 If the producing agent is unwilling or unable to accept  
361 appointment, the new insurer shall pay the agent in accordance  
362 with sub-sub-sub-subparagraph (A).

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

367 (A) Pay to the producing agent of record, for the first  
368 year, an amount that is the greater of the insurer's usual and  
369 customary commission for the type of policy written or a fee  
370 equal to the usual and customary commission of the corporation;  
371 or

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

376  
377 If the producing agent is unwilling or unable to accept  
378 appointment, the new insurer shall pay the agent in accordance  
379 with sub-sub-sub-subparagraph (A).

380 c. For purposes of determining comparable coverage under

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381 sub-subparagraphs a. and b., the comparison must be based on  
382 those forms and coverages that are reasonably comparable. The  
383 corporation may rely on a determination of comparable coverage  
384 and premium made by the producing agent who submits the  
385 application to the corporation, made in the agent's capacity as  
386 the corporation's agent. A comparison may be made solely of the  
387 premium with respect to the main building or structure only on  
388 the following basis: the same coverage A or other building  
389 limits; the same percentage hurricane deductible that applies on  
390 an annual basis or that applies to each hurricane for commercial  
391 residential property; the same percentage of ordinance and law  
392 coverage, if the same limit is offered by both the corporation  
393 and the authorized insurer; the same mitigation credits, to the  
394 extent the same types of credits are offered both by the  
395 corporation and the authorized insurer; the same method for loss  
396 payment, such as replacement cost or actual cash value, if the  
397 same method is offered both by the corporation and the  
398 authorized insurer in accordance with underwriting rules; and  
399 any other form or coverage that is reasonably comparable as  
400 determined by the board. If an application is submitted to the  
401 corporation for wind-only coverage in the coastal account, the  
402 premium for the corporation's wind-only policy plus the premium  
403 for the ex-wind policy that is offered by an authorized insurer  
404 to the applicant must be compared to the premium for multiperil  
405 coverage offered by an authorized insurer, subject to the  
406 standards for comparison specified in this subparagraph. If the  
407 corporation or the applicant requests from the authorized  
408 insurer a breakdown of the premium of the offer by types of

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409 coverage so that a comparison may be made by the corporation or  
410 its agent and the authorized insurer refuses or is unable to  
411 provide such information, the corporation may treat the offer as  
412 not being an offer of coverage from an authorized insurer at the  
413 insurer's approved rate.

414 6. Must include rules for classifications of risks and  
415 rates.

416 7. Must provide that if premium and investment income for  
417 an account attributable to a particular calendar year are in  
418 excess of projected losses and expenses for the account  
419 attributable to that year, such excess shall be held in surplus  
420 in the account. Such surplus must be available to defray  
421 deficits in that account as to future years and used for that  
422 purpose before assessing assessable insurers and assessable  
423 insureds as to any calendar year.

424 8. Must provide objective criteria and procedures to be  
425 uniformly applied to all applicants in determining whether an  
426 individual risk is so hazardous as to be uninsurable. In making  
427 this determination and in establishing the criteria and  
428 procedures, the following must be considered:

429 a. Whether the likelihood of a loss for the individual  
430 risk is substantially higher than for other risks of the same  
431 class; and

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

434

435 The acceptance or rejection of a risk by the corporation shall  
436 be construed as the private placement of insurance, and the

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437 provisions of chapter 120 do not apply.

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

442 10. The policies issued by the corporation must provide  
443 that if the corporation or the market assistance plan obtains an  
444 offer from an authorized insurer to cover the risk at its  
445 approved rates, the risk is no longer eligible for renewal  
446 through the corporation, except as otherwise provided in this  
447 subsection.

448 11. Corporation policies and applications must include a  
449 notice that the corporation policy could, under this section, be  
450 replaced with a policy issued by an authorized insurer which  
451 does not provide coverage identical to the coverage provided by  
452 the corporation. The notice must also specify that acceptance of  
453 corporation coverage creates a conclusive presumption that the  
454 applicant or policyholder is aware of this potential.

455 12. May establish, subject to approval by the office,  
456 different eligibility requirements and operational procedures  
457 for any line or type of coverage for any specified county or  
458 area if the board determines that such changes are justified due  
459 to the voluntary market being sufficiently stable and  
460 competitive in such area or for such line or type of coverage  
461 and that consumers who, in good faith, are unable to obtain  
462 insurance through the voluntary market through ordinary methods  
463 continue to have access to coverage from the corporation. If  
464 coverage is sought in connection with a real property transfer,

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465 the requirements and procedures may not provide an effective  
466 date of coverage later than the date of the closing of the  
467 transfer as established by the transferor, the transferee, and,  
468 if applicable, the lender.

469 13. Must provide that, with respect to the coastal  
470 account, any assessable insurer with a surplus as to  
471 policyholders of \$25 million or less writing 25 percent or more  
472 of its total countrywide property insurance premiums in this  
473 state may petition the office, within the first 90 days of each  
474 calendar year, to qualify as a limited apportionment company. A  
475 regular assessment levied by the corporation on a limited  
476 apportionment company for a deficit incurred by the corporation  
477 for the coastal account may be paid to the corporation on a  
478 monthly basis as the assessments are collected by the limited  
479 apportionment company from its insureds, but a limited  
480 apportionment company must begin collecting the regular  
481 assessments not later than 90 days after the regular assessments  
482 are levied by the corporation, and the regular assessments must  
483 be paid in full within 15 months after being levied by the  
484 corporation. A limited apportionment company shall collect from  
485 its policyholders any emergency assessment imposed under sub-  
486 subparagraph (b)3.d. The plan must provide that, if the office  
487 determines that any regular assessment will result in an  
488 impairment of the surplus of a limited apportionment company,  
489 the office may direct that all or part of such assessment be  
490 deferred as provided in subparagraph (q)4. However, an emergency  
491 assessment to be collected from policyholders under sub-  
492 subparagraph (b)3.d. may not be limited or deferred.

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493 14. Must provide that the corporation appoint as its  
494 licensed agents only those agents who also hold an appointment  
495 as defined in s. 626.015(3) with an insurer who at the time of  
496 the agent's initial appointment by the corporation is authorized  
497 to write and is actually writing personal lines residential  
498 property coverage, commercial residential property coverage, or  
499 commercial nonresidential property coverage within the state.

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

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

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

509 18. May require commercial property to meet specified  
510 hurricane mitigation construction features as a condition of  
511 eligibility for coverage.

512 19. Must provide that new or renewal policies issued by  
513 the corporation on or after January 1, 2012, which cover  
514 sinkhole loss do not include coverage for any loss to  
515 appurtenant structures, driveways, sidewalks, decks, or patios  
516 that are directly or indirectly caused by sinkhole activity. The  
517 corporation shall exclude such coverage using a notice of  
518 coverage change, which may be included with the policy renewal,  
519 and not by issuance of a notice of nonrenewal of the excluded  
520 coverage upon renewal of the current policy.

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521 20. As of January 1, 2012, must require that the agent  
522 obtain from an applicant for coverage from the corporation an  
523 acknowledgment signed by the applicant, which includes, at a  
524 minimum, the following statement:

525 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE  
526 AND ASSESSMENT LIABILITY:

527 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE  
528 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A  
529 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,  
530 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND  
531 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE  
532 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT  
533 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA  
534 LEGISLATURE.

535 2. I ALSO UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY  
536 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER  
537 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE  
538 FLORIDA LEGISLATURE.

539 3. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE  
540 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE  
541 STATE OF FLORIDA.

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

546 b. The signed acknowledgment form creates a conclusive  
547 presumption that the policyholder understood and accepted his or

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548 her potential surcharge and assessment liability as a  
549 policyholder of the corporation.

550 Section 3. Section 627.3518, Florida Statutes, is created  
551 to read:

552 627.3518 Citizens Property Insurance Corporation  
553 policyholder eligibility clearinghouse program.—The purpose of  
554 this section is to provide a framework for the corporation to  
555 implement a clearinghouse program by January 1, 2014.

556 (1) As used in this section, the term:

557 (a) "Corporation" means Citizens Property Insurance  
558 Corporation.

559 (b) "Exclusive agent" means any licensed insurance agent  
560 that has, by contract, agreed to act exclusively for one company  
561 or group of affiliated insurance companies and is disallowed by  
562 the provisions of that contract to directly write for any other  
563 unaffiliated insurer absent express consent from the company or  
564 group of affiliated insurance companies.

565 (c) "Independent agent" means any licensed insurance agent  
566 not described in paragraph (b).

567 (d) "Program" means the clearinghouse created under this  
568 section.

569 (2) In order to confirm eligibility with the corporation  
570 and to enhance access of new applicants for coverage and  
571 existing policyholders of the corporation to offers of coverage  
572 from authorized and surplus lines insurers, the corporation  
573 shall establish a program for personal residential risks in  
574 order to facilitate the diversion of ineligible applicants and  
575 existing policyholders from the corporation into the voluntary

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576 insurance market. The corporation shall also develop appropriate  
577 procedures for facilitating the diversion of ineligible  
578 applicants and existing policyholders for commercial residential  
579 coverage into the private insurance market and shall report such  
580 procedures to the President of the Senate and the Speaker of the  
581 House of Representatives by January 1, 2014.

582 (3) The corporation board shall establish the  
583 clearinghouse program as an organizational unit within the  
584 corporation. The program shall have all the rights and  
585 responsibilities in carrying out its duties as a licensed  
586 general lines agent, but may not be required to employ or engage  
587 a licensed general lines agent or to maintain an insurance  
588 agency license to carry out its activities in the solicitation  
589 and placement of insurance coverage. In establishing the  
590 program, the corporation may:

591 (a) Require all new applications, and all policies due for  
592 renewal, to be submitted for coverage to the program in order to  
593 facilitate obtaining an offer of coverage from an authorized  
594 insurer before binding or renewing coverage by the corporation.

595 (b) Employ or otherwise contract with individuals or other  
596 entities for appropriate administrative or professional services  
597 to effectuate the plan within the corporation in accordance with  
598 the applicable purchasing requirements under s. 627.351.

599 (c) Enter into contracts with any authorized or surplus  
600 lines insurer to participate in the program and accept an  
601 appointment by such insurer.

602 (d) Provide funds to operate the program. Insurers and  
603 agents participating in the program are not required to pay a

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604 fee to offset or partially offset the cost of the program or use  
605 the program for renewal of policies initially written through  
606 the clearinghouse.

607 (e) Develop an enhanced application that includes  
608 information to assist private insurers in determining whether to  
609 make an offer of coverage through the program.

610 (f) For personal lines residential risks, require, before  
611 approving all new applications for coverage by the corporation,  
612 that every application be subject to a period of 2 business days  
613 when any insurer participating in the program may select the  
614 application for coverage. The insurer may issue a binder on any  
615 policy selected for coverage for a period of at least 30 days  
616 but not more than 60 days.

617 (g) Allow surplus lines insurers to participate and make  
618 offers of coverage. An offer of coverage may be made by a  
619 surplus lines insurer only if an authorized insurer does not  
620 make an offer of coverage through the program. Surplus lines  
621 insurers may offer premiums and coverages that are more  
622 favorable than those offered in the corporation, and agents are  
623 not required to compile three declinations from authorized  
624 insurers before binding coverage with an surplus lines insurer.

625 (4) Any authorized or surplus lines insurer may  
626 participate in the program; however, participation is not  
627 mandatory for any insurer. Insurers making offers of coverage to  
628 new applicants or renewal policyholders through the program:

629 (a) May not be required to individually appoint any agent  
630 whose customer is underwritten and bound through the program.

631 Notwithstanding s. 626.112, insurers are not required to appoint

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632 any agent on a policy underwritten through the program for as  
633 long as that policy remains with the insurer. Insurers may, at  
634 their election, appoint any agent whose customer is initially  
635 underwritten and bound through the program. In the event an  
636 insurer accepts a policy from an agent who is not appointed  
637 pursuant to this paragraph, and thereafter elects to accept a  
638 policy from such agent, the provisions of s. 626.112 requiring  
639 appointment apply to the agent.

640 (b) Must enter into a limited agency agreement with each  
641 agent that is not appointed in accordance with paragraph (a) and  
642 whose customer is underwritten and bound through the program.

643 (c) Must enter into its standard agency agreement with  
644 each agent whose customer is underwritten and bound through the  
645 program when that agent has been appointed by the insurer  
646 pursuant to s. 626.112.

647 (d) Must comply with s. 627.4133(2).

648 (e) May participate through their single-designated  
649 managing general agent or broker; however, the provisions of  
650 paragraph (6) (a) regarding ownership, control, and use of the  
651 expirations continue to apply.

652 (f) Must pay to the producing agent a commission equal to  
653 that paid by the corporation or the usual and customary  
654 commission paid by the insurer for that line of business,  
655 whichever is greater.

656 (5) Notwithstanding s. 627.3517, any applicant for new  
657 coverage from the corporation is not eligible for coverage from  
658 the corporation, if provided an offer of coverage from an  
659 authorized insurer through the program at a premium that is at

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660 or below the eligibility threshold established in s.  
661 627.351(6)(c)5.a. Whenever an offer of coverage for a personal  
662 lines risk is received for a policyholder of the corporation at  
663 renewal from an authorized insurer through the program, if the  
664 offer is equal to or less than the corporation's renewal premium  
665 for comparable coverage, the risk is not eligible for coverage  
666 with the corporation. In the event an offer of coverage for a  
667 new applicant is received from an authorized insurer through the  
668 program, and the premium offered exceeds the eligibility  
669 threshold contained in s. 627.351(6)(c)5.a., the applicant or  
670 insured may elect to accept such coverage, or may elect to  
671 accept or continue coverage with the corporation. In the event  
672 an offer of coverage for a personal lines risk is received from  
673 an authorized insurer at renewal through the program, and the  
674 premium offered is more than the corporation's renewal premium  
675 for comparable coverage, the insured may elect to accept such  
676 coverage, or may elect to accept or continue coverage with the  
677 corporation. Any applicant for new coverage from the  
678 corporation, and policyholders of all policies for renewal, if  
679 provided an offer of coverage from a surplus lines insurer  
680 through the program, are not required to accept such offer, and  
681 may be accepted for coverage or renewed by the corporation at  
682 the applicant's or policyholder's option. Sub-sub-subparagraph  
683 627.351(6)(c)5.a.(I) does not apply to an offer of coverage from  
684 an authorized insurer obtained through the program.

685 (6) Independent insurance agents submitting new  
686 applications for coverage or that are the agent of record on a  
687 renewal policy submitted to the program:

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688 (a) Are granted and must maintain ownership and the  
689 exclusive use of expirations, records, or other written or  
690 electronic information directly related to such applications or  
691 renewals written through the corporation or through an insurer  
692 participating in the program, notwithstanding s.  
693 627.351(6)(c)5.a.(I)(B) and (II)(B). Such ownership is granted  
694 for as long as the insured remains with the agency or until sold  
695 or surrendered in writing by the agent. Contracts with the  
696 corporation or required by the corporation must not amend,  
697 modify, interfere with, or limit such rights of ownership. Such  
698 expirations, records, or other written or electronic information  
699 may be used to review an application, issue a policy, or for any  
700 other purpose necessary for placing such business through the  
701 program.

702 (b) May not be required to be appointed by any insurer  
703 participating in the program for policies written solely through  
704 the program, notwithstanding the provisions of s. 626.112.

705 (c) May accept an appointment from any insurer  
706 participating in the program.

707 (d) May enter into either a standard or limited agency  
708 agreement with the insurer, at the insurer's option.

709  
710 Applicants ineligible for coverage in accordance with subsection  
711 (5) remain ineligible if their independent agent is unwilling or  
712 unable to enter into a standard or limited agency agreement with  
713 an insurer participating in the program.

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714 (7) Exclusive agents submitting new applications for  
715 coverage or that are the agent of record on a renewal policy  
716 submitted to the program:

717 (a) Must maintain ownership and the exclusive use of  
718 expirations, records, or other written or electronic information  
719 directly related to such applications or renewals written  
720 through the corporation or through an insurer participating in  
721 the program, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and  
722 (II)(B). Contracts with the corporation or required by the  
723 corporation must not amend, modify, interfere with, or limit  
724 such rights of ownership. Such expirations, records, or other  
725 written or electronic information may be used to review an  
726 application, issue a policy, or for any other purpose necessary  
727 for placing such business through the program.

728 (b) May not be required to be appointed by any insurer  
729 participating in the program for policies written solely through  
730 the program, notwithstanding the provisions of s. 626.112.

731 (c) Must only facilitate the placement of an offer of  
732 coverage from an insurer whose limited servicing agreement is  
733 approved by that exclusive agent's exclusive insurer.

734 (d) May enter into a limited servicing agreement with the  
735 insurer making an offer of coverage, and only after the  
736 exclusive agent's insurer has approved the limited servicing  
737 agreement terms. The exclusive agent's insurer must approve a  
738 limited service agreement for the program for any insurer for  
739 which it has approved a service agreement for other purposes.

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741 Applicants ineligible for coverage in accordance with subsection  
742 (5) remain ineligible if their exclusive agent is unwilling or  
743 unable to enter into a standard or limited agency agreement with  
744 an insurer making an offer of coverage to that applicant.

745 (8) Submission of an application for coverage by the  
746 corporation to the program does not constitute the binding of  
747 coverage by the corporation, and failure of the program to  
748 obtain an offer of coverage by an insurer may not be considered  
749 acceptance of coverage of the risk by the corporation.

750 (9) The 45-day notice of nonrenewal requirement set forth  
751 in s. 627.4133(2)(b)4.b. applies when a policy is nonrenewed by  
752 the corporation because the risk has received an offer of  
753 coverage pursuant to this section which renders the risk  
754 ineligible for coverage by the corporation.

755 (10) The program may not include commercial nonresidential  
756 policies.

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

759 -----  
760 **T I T L E A M E N D M E N T**

761 Remove everything before the enacting clause and insert:

762 A bill to be entitled

763 An act relating to the establishment of a  
764 clearinghouse program within the Citizens Property  
765 Insurance Corporation; amending s. 626.752, F.S.;  
766 exempting Citizens Property Insurance Corporation from  
767 exchange of business limitations and restrictions when  
768 placing business with authorized insurers; amending s.

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769 627.351, F.S.; restricting the eligibility of a risk  
770 for a renewal policy issued by the corporation under  
771 certain circumstances; revising provisions allowing a  
772 policyholder removed from the corporation to remain  
773 eligible for coverage under certain circumstances;  
774 creating s. 627.3518, F.S.; providing purpose;  
775 providing definitions; requiring the creation of a  
776 clearinghouse program within the corporation;  
777 specifying the purposes of the program; requiring the  
778 corporation to provide a report to the Legislature;  
779 specifying certain rights and responsibilities with  
780 respect to the program; authorizing the corporation to  
781 take specified actions in establishing the program;  
782 providing conditions and requirements relating to the  
783 participation of insurers in the program; providing  
784 conditions, requirements, limitations, and procedures  
785 applicable to offers of coverage with respect to  
786 applicants for coverage with the corporation and  
787 existing policyholders of the corporation; providing  
788 requirements for certain independent insurance agents  
789 and exclusive agents with respect to submitting  
790 applications for coverage or policies for renewal to  
791 the program; providing for applicability and  
792 construction; providing an effective date.

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