

1 A bill to be entitled
2 An act relating to Citizens Property Insurance
3 Corporation; reordering and amending s. 20.055, F.S.;
4 revising the definition of the term "agency head" to
5 include the Financial Services Commission for the
6 purposes of the Citizens Property Insurance
7 Corporation; revising the definition of the term
8 "state agency" to include the Citizens Property
9 Insurance Corporation; amending s. 627.351, F.S.;
10 providing that certain residential structures are not
11 eligible for coverage by the corporation after
12 specified dates; prohibiting the corporation from
13 covering any new construction of a major structure, or
14 substantial improvements on any major structure,
15 commencing on or after July 1, 2014, that is seaward
16 of the coastal construction control line or is within
17 the Coastal Barrier Resources System; restricting the
18 eligibility of a risk for a renewal policy issued by
19 the corporation under certain circumstances;
20 authorizing insurers taking out, assuming, or removing
21 policies from the corporation to use the corporation's
22 policy forms and endorsements for a specified time
23 without approval by the Office of Insurance
24 Regulation; authorizing the corporation to adopt
25 policy forms that allow the corporation to replace or
26 repair covered damage in lieu of paying the value of
27 the loss; providing an effective date.
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29 | Be It Enacted by the Legislature of the State of Florida:

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Section 1. Subsection (1) of section 20.055, Florida Statutes, is reordered and amended to read:

20.055 Agency inspectors general.—

(1) For the purposes of this section:

(a)~~(b)~~ "Agency head" means the Governor, a Cabinet officer, a secretary as defined in s. 20.03(5), or an executive director as defined in s. 20.03(6). It also includes the chair of the Public Service Commission, the Director of the Office of Insurance Regulation of the Financial Services Commission, the Director of the Office of Financial Regulation of the Financial Services Commission, the board of directors of the Florida Housing Finance Corporation, the Financial Services Commission for the purposes of the Citizens Property Insurance Corporation, and the Chief Justice of the State Supreme Court.

(b)~~(d)~~ "Entities contracting with the state" means for-profit and not-for-profit organizations or businesses having a legal existence, such as corporations or partnerships, as opposed to natural persons, which have entered into a relationship with a state agency as defined in paragraph (a) to provide for consideration certain goods or services to the state agency or on behalf of the state agency. The relationship may be evidenced by payment by warrant or purchasing card, contract, purchase order, provider agreement, or other such mutually agreed upon relationship. This definition does not apply to entities which are the subject of audits or investigations conducted pursuant to ss. 112.3187–112.31895 or s. 409.913 or

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57 | which are otherwise confidential and exempt under s. 119.07.

58 | (c) "Individuals substantially affected" means natural
59 | persons who have established a real and sufficiently immediate
60 | injury in fact due to the findings, conclusions, or
61 | recommendations of a final report of a state agency inspector
62 | general, who are the subject of the audit or investigation, and
63 | who do not have or are not currently afforded an existing right
64 | to an independent review process. Employees of the state,
65 | including career service, probationary, other personal service,
66 | Selected Exempt Service, and Senior Management Service
67 | employees, are not covered by this definition. This definition
68 | also does not cover former employees of the state if the final
69 | report of the state agency inspector general relates to matters
70 | arising during a former employee's term of state employment.
71 | This definition does not apply to persons who are the subject of
72 | audits or investigations conducted pursuant to ss. 112.3187-
73 | 112.31895 or s. 409.913 or which are otherwise confidential and
74 | exempt under s. 119.07.

75 | (d)~~(a)~~ "State agency" means each department created
76 | pursuant to this chapter, and also includes the Executive Office
77 | of the Governor, the Department of Military Affairs, the Fish
78 | and Wildlife Conservation Commission, the Office of Insurance
79 | Regulation of the Financial Services Commission, the Office of
80 | Financial Regulation of the Financial Services Commission, the
81 | Public Service Commission, the Board of Governors of the State
82 | University System, the Florida Housing Finance Corporation, the
83 | Citizens Property Insurance Corporation, and the state courts
84 | system.

85 Section 2. Paragraphs (a), (c), and (q) of subsection (6)
86 of section 627.351, Florida Statutes, are amended, and paragraph
87 (gg) is added to that subsection, to read:

88 627.351 Insurance risk apportionment plans.—

89 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

90 (a) The public purpose of this subsection is to ensure
91 that there is an orderly market for property insurance for
92 residents and businesses of this state.

93 1. The Legislature finds that private insurers are
94 unwilling or unable to provide affordable property insurance
95 coverage in this state to the extent sought and needed. The
96 absence of affordable property insurance threatens the public
97 health, safety, and welfare and likewise threatens the economic
98 health of the state. The state therefore has a compelling public
99 interest and a public purpose to assist in assuring that
100 property in the state is insured and that it is insured at
101 affordable rates so as to facilitate the remediation,
102 reconstruction, and replacement of damaged or destroyed property
103 in order to reduce or avoid the negative effects otherwise
104 resulting to the public health, safety, and welfare, to the
105 economy of the state, and to the revenues of the state and local
106 governments which are needed to provide for the public welfare.
107 It is necessary, therefore, to provide affordable property
108 insurance to applicants who are in good faith entitled to
109 procure insurance through the voluntary market but are unable to
110 do so. The Legislature intends, therefore, that affordable
111 property insurance be provided and that it continue to be
112 provided, as long as necessary, through Citizens Property

113 Insurance Corporation, a government entity that is an integral
114 part of the state, and that is not a private insurance company.
115 To that end, the corporation shall strive to increase the
116 availability of affordable property insurance in this state,
117 while achieving efficiencies and economies, and while providing
118 service to policyholders, applicants, and agents which is no
119 less than the quality generally provided in the voluntary
120 market, for the achievement of the foregoing public purposes.
121 Because it is essential for this government entity to have the
122 maximum financial resources to pay claims following a
123 catastrophic hurricane, it is the intent of the Legislature that
124 the corporation continue to be an integral part of the state and
125 that the income of the corporation be exempt from federal income
126 taxation and that interest on the debt obligations issued by the
127 corporation be exempt from federal income taxation.

128 2. The Residential Property and Casualty Joint
129 Underwriting Association originally created by this statute
130 shall be known as the Citizens Property Insurance Corporation.
131 The corporation shall provide insurance for residential and
132 commercial property, for applicants who are entitled, but, in
133 good faith, are unable to procure insurance through the
134 voluntary market. The corporation shall operate pursuant to a
135 plan of operation approved by order of the Financial Services
136 Commission. The plan is subject to continuous review by the
137 commission. The commission may, by order, withdraw approval of
138 all or part of a plan if the commission determines that
139 conditions have changed since approval was granted and that the
140 purposes of the plan require changes in the plan. For the

141 purposes of this subsection, residential coverage includes both
142 personal lines residential coverage, which consists of the type
143 of coverage provided by homeowner's, mobile home owner's,
144 dwelling, tenant's, condominium unit owner's, and similar
145 policies; and commercial lines residential coverage, which
146 consists of the type of coverage provided by condominium
147 association, apartment building, and similar policies.

148 3. With respect to coverage for personal lines residential
149 structures:

150 a. Effective January 1, 2014 ~~2009~~, a ~~personal lines~~
151 ~~residential~~ structure that has a dwelling replacement cost of \$1
152 ~~\$2~~ million or more, or a single condominium unit that has a
153 combined dwelling and contents replacement cost of \$1 ~~\$2~~ million
154 or more is not eligible for coverage by the corporation. Such
155 dwellings insured by the corporation on December 31, 2013 ~~2008~~,
156 may continue to be covered by the corporation until the end of
157 the policy term. ~~However, such dwellings may reapply and obtain~~
158 ~~coverage if the property owner provides the corporation with a~~
159 ~~sworn affidavit from one or more insurance agents, on a form~~
160 ~~provided by the corporation, stating that the agents have made~~
161 ~~their best efforts to obtain coverage and that the property has~~
162 ~~been rejected for coverage by at least one authorized insurer~~
163 ~~and at least three surplus lines insurers. If such conditions~~
164 ~~are met, the dwelling may be insured by the corporation for up~~
165 ~~to 3 years, after which time the dwelling is ineligible for~~
166 ~~coverage.~~ The office shall approve the method used by the
167 corporation for valuing the dwelling replacement cost for the
168 purposes of this subparagraph. If a policyholder is insured by

169 the corporation prior to being determined to be ineligible
170 pursuant to this subparagraph and such policyholder files a
171 lawsuit challenging the determination, the policyholder may
172 remain insured by the corporation until the conclusion of the
173 litigation.

174 b. Effective January 1, 2015, a structure that has a
175 dwelling replacement cost of \$900,000 or more, or a single
176 condominium unit that has a combined dwelling and contents
177 replacement cost of \$900,000 or more, is not eligible for
178 coverage by the corporation. Such dwellings insured by the
179 corporation on December 31, 2014, may continue to be covered by
180 the corporation only until the end of the policy term.

181 c. Effective January 1, 2016, a structure that has a
182 dwelling replacement cost of \$800,000 or more, or a single
183 condominium unit that has a combined dwelling and contents
184 replacement cost of \$800,000 or more, is not eligible for
185 coverage by the corporation. Such dwellings insured by the
186 corporation on December 31, 2015, may continue to be covered by
187 the corporation until the end of the policy term.

188 d. Effective January 1, 2017, a structure that has a
189 dwelling replacement cost of \$700,000 or more, or a single
190 condominium unit that has a combined dwelling and contents
191 replacement cost of \$700,000 or more, is not eligible for
192 coverage by the corporation. Such dwellings insured by the
193 corporation on December 31, 2016, may continue to be covered by
194 the corporation until the end of the policy term.

195 e. Effective January 1, 2018, a structure that has a
196 dwelling replacement cost of \$600,000 or more, or a single

197 condominium unit that has a combined dwelling and contents
198 replacement cost of \$600,000 or more, is not eligible for
199 coverage by the corporation. Such dwellings insured by the
200 corporation on December 31, 2017, may continue to be covered by
201 the corporation until the end of the policy term.

202 f. Effective January 1, 2019, a structure that has a
203 dwelling replacement cost of \$500,000 or more, or a single
204 condominium unit that has a combined dwelling and contents
205 replacement cost of \$500,000 or more, is not eligible for
206 coverage by the corporation. Such dwellings insured by the
207 corporation on December 31, 2018, may continue to be covered by
208 the corporation until the end of the policy term.

209 4. It is the intent of the Legislature that policyholders,
210 applicants, and agents of the corporation receive service and
211 treatment of the highest possible level but never less than that
212 generally provided in the voluntary market. It is also intended
213 that the corporation be held to service standards no less than
214 those applied to insurers in the voluntary market by the office
215 with respect to responsiveness, timeliness, customer courtesy,
216 and overall dealings with policyholders, applicants, or agents
217 of the corporation.

218 5.a. Effective January 1, 2009, a personal lines
219 residential structure that is located in the "wind-borne debris
220 region," as defined in s. 1609.2, International Building Code
221 (2006), and that has an insured value on the structure of
222 \$750,000 or more is not eligible for coverage by the corporation
223 unless the structure has opening protections as required under
224 the Florida Building Code for a newly constructed residential

225 structure in that area. A residential structure shall be deemed
226 to comply with this subparagraph if it has shutters or opening
227 protections on all openings and if such opening protections
228 complied with the Florida Building Code at the time they were
229 installed.

230 b. Any major structure as defined in s. 161.54(6)(a) for
231 which a permit is applied on or after July 1, 2014, for new
232 construction or substantial improvement as defined in s.
233 161.54(12) is not eligible for coverage by the corporation if
234 the structure is seaward of the coastal construction control
235 line established pursuant to s. 161.053 or is within the Coastal
236 Barrier Resources System as designated by 16 U.S.C. ss. 3501-
237 3510.

238 6. For any claim filed under any policy of the
239 corporation, a public adjuster may not charge, agree to, or
240 accept any compensation, payment, commission, fee, or other
241 thing of value greater than 10 percent of the additional amount
242 actually paid over the amount that was originally offered by the
243 corporation for any one claim.

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

245 1. Must provide for adoption of residential property and
246 casualty insurance policy forms and commercial residential and
247 nonresidential property insurance forms, which must be approved
248 by the office before use. The corporation shall adopt the
249 following policy forms:

250 a. Standard personal lines policy forms that are
251 comprehensive multiperil policies providing full coverage of a
252 residential property equivalent to the coverage provided in the

253 private insurance market under an HO-3, HO-4, or HO-6 policy.

254 b. Basic personal lines policy forms that are policies
255 similar to an HO-8 policy or a dwelling fire policy that provide
256 coverage meeting the requirements of the secondary mortgage
257 market, but which is more limited than the coverage under a
258 standard policy.

259 c. Commercial lines residential and nonresidential policy
260 forms that are generally similar to the basic perils of full
261 coverage obtainable for commercial residential structures and
262 commercial nonresidential structures in the admitted voluntary
263 market.

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

269 e. Commercial lines nonresidential property insurance
270 forms that cover the peril of wind only. The forms are
271 applicable only to nonresidential properties located in areas
272 eligible for coverage under the coastal account referred to in
273 sub-subparagraph (b)2.a.

274 f. The corporation may adopt variations of the policy
275 forms listed in sub-subparagraphs a.-e. which contain more
276 restrictive coverage.

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

281 2. Must provide that the corporation adopt a program in
282 which the corporation and authorized insurers enter into quota
283 share primary insurance agreements for hurricane coverage, as
284 defined in s. 627.4025(2)(a), for eligible risks, and adopt
285 property insurance forms for eligible risks which cover the
286 peril of wind only.

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

288 (I) "Quota share primary insurance" means an arrangement
289 in which the primary hurricane coverage of an eligible risk is
290 provided in specified percentages by the corporation and an
291 authorized insurer. The corporation and authorized insurer are
292 each solely responsible for a specified percentage of hurricane
293 coverage of an eligible risk as set forth in a quota share
294 primary insurance agreement between the corporation and an
295 authorized insurer and the insurance contract. The
296 responsibility of the corporation or authorized insurer to pay
297 its specified percentage of hurricane losses of an eligible
298 risk, as set forth in the agreement, may not be altered by the
299 inability of the other party to pay its specified percentage of
300 losses. Eligible risks that are provided hurricane coverage
301 through a quota share primary insurance arrangement must be
302 provided policy forms that set forth the obligations of the
303 corporation and authorized insurer under the arrangement,
304 clearly specify the percentages of quota share primary insurance
305 provided by the corporation and authorized insurer, and
306 conspicuously and clearly state that the authorized insurer and
307 the corporation may not be held responsible beyond their
308 specified percentage of coverage of hurricane losses.

309 (II) "Eligible risks" means personal lines residential and
310 commercial lines residential risks that meet the underwriting
311 criteria of the corporation and are located in areas that were
312 eligible for coverage by the Florida Windstorm Underwriting
313 Association on January 1, 2002.

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

317 c. If the corporation determines that additional coverage
318 levels are necessary to maximize participation in quota share
319 primary insurance agreements by authorized insurers, the
320 corporation may establish additional coverage levels. However,
321 the corporation's quota share primary insurance coverage level
322 may not exceed 90 percent.

323 d. Any quota share primary insurance agreement entered
324 into between an authorized insurer and the corporation must
325 provide for a uniform specified percentage of coverage of
326 hurricane losses, by county or territory as set forth by the
327 corporation board, for all eligible risks of the authorized
328 insurer covered under the agreement.

329 e. Any quota share primary insurance agreement entered
330 into between an authorized insurer and the corporation is
331 subject to review and approval by the office. However, such
332 agreement shall be authorized only as to insurance contracts
333 entered into between an authorized insurer and an insured who is
334 already insured by the corporation for wind coverage.

335 f. For all eligible risks covered under quota share
336 primary insurance agreements, the exposure and coverage levels

337 for both the corporation and authorized insurers shall be
338 reported by the corporation to the Florida Hurricane Catastrophe
339 Fund. For all policies of eligible risks covered under such
340 agreements, the corporation and the authorized insurer must
341 maintain complete and accurate records for the purpose of
342 exposure and loss reimbursement audits as required by fund
343 rules. The corporation and the authorized insurer shall each
344 maintain duplicate copies of policy declaration pages and
345 supporting claims documents.

346 g. The corporation board shall establish in its plan of
347 operation standards for quota share agreements which ensure that
348 there is no discriminatory application among insurers as to the
349 terms of the agreements, pricing of the agreements, incentive
350 provisions if any, and consideration paid for servicing policies
351 or adjusting claims.

352 h. The quota share primary insurance agreement between the
353 corporation and an authorized insurer must set forth the
354 specific terms under which coverage is provided, including, but
355 not limited to, the sale and servicing of policies issued under
356 the agreement by the insurance agent of the authorized insurer
357 producing the business, the reporting of information concerning
358 eligible risks, the payment of premium to the corporation, and
359 arrangements for the adjustment and payment of hurricane claims
360 incurred on eligible risks by the claims adjuster and personnel
361 of the authorized insurer. Entering into a quota sharing
362 insurance agreement between the corporation and an authorized
363 insurer is voluntary and at the discretion of the authorized
364 insurer.

365 3.a. May provide that the corporation may employ or
366 otherwise contract with individuals or other entities to provide
367 administrative or professional services that may be appropriate
368 to effectuate the plan. The corporation may borrow funds by
369 issuing bonds or by incurring other indebtedness, and shall have
370 other powers reasonably necessary to effectuate the requirements
371 of this subsection, including, without limitation, the power to
372 issue bonds and incur other indebtedness in order to refinance
373 outstanding bonds or other indebtedness. The corporation may
374 seek judicial validation of its bonds or other indebtedness
375 under chapter 75. The corporation may issue bonds or incur other
376 indebtedness, or have bonds issued on its behalf by a unit of
377 local government pursuant to subparagraph (q)2. in the absence
378 of a hurricane or other weather-related event, upon a
379 determination by the corporation, subject to approval by the
380 office, that such action would enable it to efficiently meet the
381 financial obligations of the corporation and that such
382 financings are reasonably necessary to effectuate the
383 requirements of this subsection. The corporation may take all
384 actions needed to facilitate tax-free status for such bonds or
385 indebtedness, including formation of trusts or other affiliated
386 entities. The corporation may pledge assessments, projected
387 recoveries from the Florida Hurricane Catastrophe Fund, other
388 reinsurance recoverables, policyholder surcharges and other
389 surcharges, and other funds available to the corporation as
390 security for bonds or other indebtedness. In recognition of s.
391 10, Art. I of the State Constitution, prohibiting the impairment
392 of obligations of contracts, it is the intent of the Legislature

393 | that no action be taken whose purpose is to impair any bond
394 | indenture or financing agreement or any revenue source committed
395 | by contract to such bond or other indebtedness.

396 | b. To ensure that the corporation is operating in an
397 | efficient and economic manner while providing quality service to
398 | policyholders, applicants, and agents, the board shall
399 | commission an independent third-party consultant having
400 | expertise in insurance company management or insurance company
401 | management consulting to prepare a report and make
402 | recommendations on the relative costs and benefits of
403 | outsourcing various policy issuance and service functions to
404 | private servicing carriers or entities performing similar
405 | functions in the private market for a fee, rather than
406 | performing such functions in-house. In making such
407 | recommendations, the consultant shall consider how other
408 | residual markets, both in this state and around the country,
409 | outsource appropriate functions or use servicing carriers to
410 | better match expenses with revenues that fluctuate based on a
411 | widely varying policy count. The report must be completed by
412 | July 1, 2012. Upon receiving the report, the board shall develop
413 | a plan to implement the report and submit the plan for review,
414 | modification, and approval to the Financial Services Commission.
415 | Upon the commission's approval of the plan, the board shall
416 | begin implementing the plan by January 1, 2013.

417 | 4. Must require that the corporation operate subject to
418 | the supervision and approval of a board of governors consisting
419 | of eight individuals who are residents of this state, from
420 | different geographical areas of this state.

421 a. The Governor, the Chief Financial Officer, the
422 President of the Senate, and the Speaker of the House of
423 Representatives shall each appoint two members of the board. At
424 least one of the two members appointed by each appointing
425 officer must have demonstrated expertise in insurance and is
426 deemed to be within the scope of the exemption provided in s.
427 112.313(7)(b). The Chief Financial Officer shall designate one
428 of the appointees as chair. All board members serve at the
429 pleasure of the appointing officer. All members of the board are
430 subject to removal at will by the officers who appointed them.
431 All board members, including the chair, must be appointed to
432 serve for 3-year terms beginning annually on a date designated
433 by the plan. However, for the first term beginning on or after
434 July 1, 2009, each appointing officer shall appoint one member
435 of the board for a 2-year term and one member for a 3-year term.
436 A board vacancy shall be filled for the unexpired term by the
437 appointing officer. The Chief Financial Officer shall appoint a
438 technical advisory group to provide information and advice to
439 the board in connection with the board's duties under this
440 subsection. The executive director and senior managers of the
441 corporation shall be engaged by the board and serve at the
442 pleasure of the board. Any executive director appointed on or
443 after July 1, 2006, is subject to confirmation by the Senate.
444 The executive director is responsible for employing other staff
445 as the corporation may require, subject to review and
446 concurrence by the board.

447 b. The board shall create a Market Accountability Advisory
448 Committee to assist the corporation in developing awareness of

449 its rates and its customer and agent service levels in
450 relationship to the voluntary market insurers writing similar
451 coverage.

452 (I) The members of the advisory committee consist of the
453 following 11 persons, one of whom must be elected chair by the
454 members of the committee: four representatives, one appointed by
455 the Florida Association of Insurance Agents, one by the Florida
456 Association of Insurance and Financial Advisors, one by the
457 Professional Insurance Agents of Florida, and one by the Latin
458 American Association of Insurance Agencies; three
459 representatives appointed by the insurers with the three highest
460 voluntary market share of residential property insurance
461 business in the state; one representative from the Office of
462 Insurance Regulation; one consumer appointed by the board who is
463 insured by the corporation at the time of appointment to the
464 committee; one representative appointed by the Florida
465 Association of Realtors; and one representative appointed by the
466 Florida Bankers Association. All members shall be appointed to
467 3-year terms and may serve for consecutive terms.

468 (II) The committee shall report to the corporation at each
469 board meeting on insurance market issues which may include rates
470 and rate competition with the voluntary market; service,
471 including policy issuance, claims processing, and general
472 responsiveness to policyholders, applicants, and agents; and
473 matters relating to depopulation.

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

476 a. Subject to s. 627.3517, with respect to personal lines

477 residential risks, if the risk is offered coverage from an
478 authorized insurer at the insurer's approved rate under a
479 standard policy including wind coverage or, if consistent with
480 the insurer's underwriting rules as filed with the office, a
481 basic policy including wind coverage, for a new application to
482 the corporation for coverage, the risk is not eligible for any
483 policy issued by the corporation unless the premium for coverage
484 from the authorized insurer is more than 15 percent greater than
485 the premium for comparable coverage from the corporation. For
486 renewal policies, the risk is not eligible for any policy issued
487 by the corporation unless the premium for the coverage from the
488 authorized insurer is more than 5 percent greater than the
489 premium for comparable coverage from the corporation. If the
490 risk is not able to obtain such offer, the risk is eligible for
491 a standard policy including wind coverage or a basic policy
492 including wind coverage issued by the corporation; however, if
493 the risk could not be insured under a standard policy including
494 wind coverage regardless of market conditions, the risk is
495 eligible for a basic policy including wind coverage unless
496 rejected under subparagraph 8. However, a policyholder of the
497 corporation or a policyholder removed from the corporation
498 through an assumption agreement until the end of the assumption
499 period remains eligible for coverage from the corporation
500 regardless of any offer of coverage from an authorized insurer
501 or surplus lines insurer. The corporation shall determine the
502 type of policy to be provided on the basis of objective
503 standards specified in the underwriting manual and based on
504 generally accepted underwriting practices.

505 (I) If the risk accepts an offer of coverage through the
 506 market assistance plan or through a mechanism established by the
 507 corporation other than a plan established by s. 627.3518, before
 508 a policy is issued to the risk by the corporation or during the
 509 first 30 days of coverage by the corporation, and the producing
 510 agent who submitted the application to the plan or to the
 511 corporation is not currently appointed by the insurer, the
 512 insurer shall:

513 (A) Pay to the producing agent of record of the policy for
 514 the first year, an amount that is the greater of the insurer's
 515 usual and customary commission for the type of policy written or
 516 a fee equal to the usual and customary commission of the
 517 corporation; or

518 (B) Offer to allow the producing agent of record of the
 519 policy to continue servicing the policy for at least 1 year and
 520 offer to pay the agent the greater of the insurer's or the
 521 corporation's usual and customary commission for the type of
 522 policy written.

523
 524 If the producing agent is unwilling or unable to accept
 525 appointment, the new insurer shall pay the agent in accordance
 526 with sub-sub-sub-subparagraph (A).

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

531 (A) Pay to the producing agent of record, for the first
 532 year, an amount that is the greater of the insurer's usual and

533 customary commission for the type of policy written or a fee
534 equal to the usual and customary commission of the corporation;
535 or

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

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

544 b. With respect to commercial lines residential risks, for
545 a new application to the corporation for coverage, if the risk
546 is offered coverage under a policy including wind coverage from
547 an authorized insurer at its approved rate, the risk is not
548 eligible for a policy issued by the corporation unless the
549 premium for coverage from the authorized insurer is more than 15
550 percent greater than the premium for comparable coverage from
551 the corporation. For renewal policies, the risk is not eligible
552 for any policy issued by the corporation unless the premium for
553 the coverage from the authorized insurer is more than 5 percent
554 greater than the premium for comparable coverage from the
555 corporation. If the risk is not able to obtain any such offer,
556 the risk is eligible for a policy including wind coverage issued
557 by the corporation. However, a policyholder of the corporation
558 or a policyholder removed from the corporation through an
559 assumption agreement until the end of the assumption period
560 remains eligible for coverage from the corporation regardless of

561 | an offer of coverage from an authorized insurer or surplus lines
 562 | insurer.

563 | (I) If the risk accepts an offer of coverage through the
 564 | market assistance plan or through a mechanism established by the
 565 | corporation other than a plan established by s. 627.3518, before
 566 | a policy is issued to the risk by the corporation or during the
 567 | first 30 days of coverage by the corporation, and the producing
 568 | agent who submitted the application to the plan or the
 569 | corporation is not currently appointed by the insurer, the
 570 | insurer shall:

571 | (A) Pay to the producing agent of record of the policy,
 572 | for the first year, an amount that is the greater of the
 573 | insurer's usual and customary commission for the type of policy
 574 | written or a fee equal to the usual and customary commission of
 575 | the corporation; or

576 | (B) Offer to allow the producing agent of record of the
 577 | policy to continue servicing the policy for at least 1 year and
 578 | offer to pay the agent the greater of the insurer's or the
 579 | corporation's usual and customary commission for the type of
 580 | policy written.

581 |
 582 | If the producing agent is unwilling or unable to accept
 583 | appointment, the new insurer shall pay the agent in accordance
 584 | with sub-sub-sub-subparagraph (A).

585 | (II) If the corporation enters into a contractual
 586 | agreement for a take-out plan, the producing agent of record of
 587 | the corporation policy is entitled to retain any unearned
 588 | commission on the policy, and the insurer shall:

589 (A) Pay to the producing agent of record, for the first
590 year, an amount that is the greater of the insurer's usual and
591 customary commission for the type of policy written or a fee
592 equal to the usual and customary commission of the corporation;
593 or

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

598

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

602 c. For purposes of determining comparable coverage under
603 sub-subparagraphs a. and b., the comparison must be based on
604 those forms and coverages that are reasonably comparable. The
605 corporation may rely on a determination of comparable coverage
606 and premium made by the producing agent who submits the
607 application to the corporation, made in the agent's capacity as
608 the corporation's agent. A comparison may be made solely of the
609 premium with respect to the main building or structure only on
610 the following basis: the same coverage A or other building
611 limits; the same percentage hurricane deductible that applies on
612 an annual basis or that applies to each hurricane for commercial
613 residential property; the same percentage of ordinance and law
614 coverage, if the same limit is offered by both the corporation
615 and the authorized insurer; the same mitigation credits, to the
616 extent the same types of credits are offered both by the

617 corporation and the authorized insurer; the same method for loss
618 payment, such as replacement cost or actual cash value, if the
619 same method is offered both by the corporation and the
620 authorized insurer in accordance with underwriting rules; and
621 any other form or coverage that is reasonably comparable as
622 determined by the board. If an application is submitted to the
623 corporation for wind-only coverage in the coastal account, the
624 premium for the corporation's wind-only policy plus the premium
625 for the ex-wind policy that is offered by an authorized insurer
626 to the applicant must be compared to the premium for multiperil
627 coverage offered by an authorized insurer, subject to the
628 standards for comparison specified in this subparagraph. If the
629 corporation or the applicant requests from the authorized
630 insurer a breakdown of the premium of the offer by types of
631 coverage so that a comparison may be made by the corporation or
632 its agent and the authorized insurer refuses or is unable to
633 provide such information, the corporation may treat the offer as
634 not being an offer of coverage from an authorized insurer at the
635 insurer's approved rate.

636 6. Must include rules for classifications of risks and
637 rates.

638 7. Must provide that if premium and investment income for
639 an account attributable to a particular calendar year are in
640 excess of projected losses and expenses for the account
641 attributable to that year, such excess shall be held in surplus
642 in the account. Such surplus must be available to defray
643 deficits in that account as to future years and used for that
644 purpose before assessing assessable insurers and assessable

645 insureds as to any calendar year.

646 8. Must provide objective criteria and procedures to be
647 uniformly applied to all applicants in determining whether an
648 individual risk is so hazardous as to be uninsurable. In making
649 this determination and in establishing the criteria and
650 procedures, the following must be considered:

651 a. Whether the likelihood of a loss for the individual
652 risk is substantially higher than for other risks of the same
653 class; and

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

656

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

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

664 10. The policies issued by the corporation must provide
665 that if the corporation or the market assistance plan obtains an
666 offer from an authorized insurer to cover the risk at its
667 approved rates, the risk is no longer eligible for renewal
668 through the corporation, except as otherwise provided in this
669 subsection.

670 11. Corporation policies and applications must include a
671 notice that the corporation policy could, under this section, be
672 replaced with a policy issued by an authorized insurer which

673 does not provide coverage identical to the coverage provided by
674 the corporation. The notice must also specify that acceptance of
675 corporation coverage creates a conclusive presumption that the
676 applicant or policyholder is aware of this potential.

677 12. May establish, subject to approval by the office,
678 different eligibility requirements and operational procedures
679 for any line or type of coverage for any specified county or
680 area if the board determines that such changes are justified due
681 to the voluntary market being sufficiently stable and
682 competitive in such area or for such line or type of coverage
683 and that consumers who, in good faith, are unable to obtain
684 insurance through the voluntary market through ordinary methods
685 continue to have access to coverage from the corporation. If
686 coverage is sought in connection with a real property transfer,
687 the requirements and procedures may not provide an effective
688 date of coverage later than the date of the closing of the
689 transfer as established by the transferor, the transferee, and,
690 if applicable, the lender.

691 13. Must provide that, with respect to the coastal
692 account, any assessable insurer with a surplus as to
693 policyholders of \$25 million or less writing 25 percent or more
694 of its total countrywide property insurance premiums in this
695 state may petition the office, within the first 90 days of each
696 calendar year, to qualify as a limited apportionment company. A
697 regular assessment levied by the corporation on a limited
698 apportionment company for a deficit incurred by the corporation
699 for the coastal account may be paid to the corporation on a
700 monthly basis as the assessments are collected by the limited

701 | apportionment company from its insureds, but a limited
702 | apportionment company must begin collecting the regular
703 | assessments not later than 90 days after the regular assessments
704 | are levied by the corporation, and the regular assessments must
705 | be paid in full within 15 months after being levied by the
706 | corporation. A limited apportionment company shall collect from
707 | its policyholders any emergency assessment imposed under sub-
708 | subparagraph (b)3.d. The plan must provide that, if the office
709 | determines that any regular assessment will result in an
710 | impairment of the surplus of a limited apportionment company,
711 | the office may direct that all or part of such assessment be
712 | deferred as provided in subparagraph (q)4. However, an emergency
713 | assessment to be collected from policyholders under sub-
714 | subparagraph (b)3.d. may not be limited or deferred.

715 | 14. Must provide that the corporation appoint as its
716 | licensed agents only those agents who also hold an appointment
717 | as defined in s. 626.015(3) with an insurer who at the time of
718 | the agent's initial appointment by the corporation is authorized
719 | to write and is actually writing personal lines residential
720 | property coverage, commercial residential property coverage, or
721 | commercial nonresidential property coverage within the state.

722 | 15. Must provide a premium payment plan option to its
723 | policyholders which, at a minimum, allows for quarterly and
724 | semiannual payment of premiums. A monthly payment plan may, but
725 | is not required to, be offered.

726 | 16. Must limit coverage on mobile homes or manufactured
727 | homes built before 1994 to actual cash value of the dwelling
728 | rather than replacement costs of the dwelling.

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

731 18. May require commercial property to meet specified
732 hurricane mitigation construction features as a condition of
733 eligibility for coverage.

734 19. Must provide that new or renewal policies issued by
735 the corporation on or after January 1, 2012, which cover
736 sinkhole loss do not include coverage for any loss to
737 appurtenant structures, driveways, sidewalks, decks, or patios
738 that are directly or indirectly caused by sinkhole activity. The
739 corporation shall exclude such coverage using a notice of
740 coverage change, which may be included with the policy renewal,
741 and not by issuance of a notice of nonrenewal of the excluded
742 coverage upon renewal of the current policy.

743 20. As of January 1, 2012, must require that the agent
744 obtain from an applicant for coverage from the corporation an
745 acknowledgment signed by the applicant, which includes, at a
746 minimum, the following statement:

747 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE
748 AND ASSESSMENT LIABILITY:

749 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
750 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
751 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
752 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
753 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE
754 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT
755 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
756 LEGISLATURE.

757 2. I ALSO UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
758 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
759 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
760 FLORIDA LEGISLATURE.

761 3. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
762 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
763 STATE OF FLORIDA.

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

768 b. The signed acknowledgment form creates a conclusive
769 presumption that the policyholder understood and accepted his or
770 her potential surcharge and assessment liability as a
771 policyholder of the corporation.

772 (q)1. The corporation shall certify to the office its
773 needs for annual assessments as to a particular calendar year,
774 and for any interim assessments that it deems to be necessary to
775 sustain operations as to a particular year pending the receipt
776 of annual assessments. Upon verification, the office shall
777 approve such certification, and the corporation shall levy such
778 annual or interim assessments. Such assessments shall be
779 prorated as provided in paragraph (b). The corporation shall
780 take all reasonable and prudent steps necessary to collect the
781 amount of assessments due from each assessable insurer,
782 including, if prudent, filing suit to collect the assessments,
783 and the office may provide such assistance to the corporation it
784 deems appropriate. If the corporation is unable to collect an

785 assessment from any assessable insurer, the uncollected
786 assessments shall be levied as an additional assessment against
787 the assessable insurers and any assessable insurer required to
788 pay an additional assessment as a result of such failure to pay
789 shall have a cause of action against such nonpaying assessable
790 insurer. Assessments shall be included as an appropriate factor
791 in the making of rates. The failure of a surplus lines agent to
792 collect and remit any regular or emergency assessment levied by
793 the corporation is considered to be a violation of s. 626.936
794 and subjects the surplus lines agent to the penalties provided
795 in that section.

796 2. The governing body of any unit of local government, any
797 residents of which are insured by the corporation, may issue
798 bonds as defined in s. 125.013 or s. 166.101 from time to time
799 to fund an assistance program, in conjunction with the
800 corporation, for the purpose of defraying deficits of the
801 corporation. In order to avoid needless and indiscriminate
802 proliferation, duplication, and fragmentation of such assistance
803 programs, any unit of local government, any residents of which
804 are insured by the corporation, may provide for the payment of
805 losses, regardless of whether or not the losses occurred within
806 or outside of the territorial jurisdiction of the local
807 government. Revenue bonds under this subparagraph may not be
808 issued until validated pursuant to chapter 75, unless a state of
809 emergency is declared by executive order or proclamation of the
810 Governor pursuant to s. 252.36 making such findings as are
811 necessary to determine that it is in the best interests of, and
812 necessary for, the protection of the public health, safety, and

813 general welfare of residents of this state and declaring it an
814 essential public purpose to permit certain municipalities or
815 counties to issue such bonds as will permit relief to claimants
816 and policyholders of the corporation. Any such unit of local
817 government may enter into such contracts with the corporation
818 and with any other entity created pursuant to this subsection as
819 are necessary to carry out this paragraph. Any bonds issued
820 under this subparagraph shall be payable from and secured by
821 moneys received by the corporation from emergency assessments
822 under sub-subparagraph (b)3.d., and assigned and pledged to or
823 on behalf of the unit of local government for the benefit of the
824 holders of such bonds. The funds, credit, property, and taxing
825 power of the state or of the unit of local government shall not
826 be pledged for the payment of such bonds.

827 3.a. The corporation shall adopt one or more programs
828 subject to approval by the office for the reduction of both new
829 and renewal writings in the corporation. Beginning January 1,
830 2008, any program the corporation adopts for the payment of
831 bonuses to an insurer for each risk the insurer removes from the
832 corporation shall comply with s. 627.3511(2) and may not exceed
833 the amount referenced in s. 627.3511(2) for each risk removed.
834 The corporation may consider any prudent and not unfairly
835 discriminatory approach to reducing corporation writings, and
836 may adopt a credit against assessment liability or other
837 liability that provides an incentive for insurers to take risks
838 out of the corporation and to keep risks out of the corporation
839 by maintaining or increasing voluntary writings in counties or
840 areas in which corporation risks are highly concentrated and a

841 program to provide a formula under which an insurer voluntarily
842 taking risks out of the corporation by maintaining or increasing
843 voluntary writings will be relieved wholly or partially from
844 assessments under sub-subparagraph (b)3.a. However, any "take-
845 out bonus" or payment to an insurer must be conditioned on the
846 property being insured for at least 5 years by the insurer,
847 unless canceled or nonrenewed by the policyholder. If the policy
848 is canceled or nonrenewed by the policyholder before the end of
849 the 5-year period, the amount of the take-out bonus must be
850 prorated for the time period the policy was insured. When the
851 corporation enters into a contractual agreement for a take-out
852 plan, the producing agent of record of the corporation policy is
853 entitled to retain any unearned commission on such policy, and
854 the insurer shall either:

855 (I) Pay to the producing agent of record of the policy,
856 for the first year, an amount which is the greater of the
857 insurer's usual and customary commission for the type of policy
858 written or a policy fee equal to the usual and customary
859 commission of the corporation; or

860 (II) Offer to allow the producing agent of record of the
861 policy to continue servicing the policy for a period of not less
862 than 1 year and offer to pay the agent the insurer's usual and
863 customary commission for the type of policy written. If the
864 producing agent is unwilling or unable to accept appointment by
865 the new insurer, the new insurer shall pay the agent in
866 accordance with sub-sub-subparagraph (I).

867 b. Any credit or exemption from regular assessments
868 adopted under this subparagraph shall last no longer than the 3

869 years following the cancellation or expiration of the policy by
870 the corporation. With the approval of the office, the board may
871 extend such credits for an additional year if the insurer
872 guarantees an additional year of renewability for all policies
873 removed from the corporation, or for 2 additional years if the
874 insurer guarantees 2 additional years of renewability for all
875 policies so removed.

876 c. There shall be no credit, limitation, exemption, or
877 deferment from emergency assessments to be collected from
878 policyholders pursuant to sub-subparagraph (b)3.d.

879 4. The plan shall provide for the deferment, in whole or
880 in part, of the assessment of an assessable insurer, other than
881 an emergency assessment collected from policyholders pursuant to
882 sub-subparagraph (b)3.d., if the office finds that payment of
883 the assessment would endanger or impair the solvency of the
884 insurer. In the event an assessment against an assessable
885 insurer is deferred in whole or in part, the amount by which
886 such assessment is deferred may be assessed against the other
887 assessable insurers in a manner consistent with the basis for
888 assessments set forth in paragraph (b).

889 5. Effective July 1, 2007, in order to evaluate the costs
890 and benefits of approved take-out plans, if the corporation pays
891 a bonus or other payment to an insurer for an approved take-out
892 plan, it shall maintain a record of the address or such other
893 identifying information on the property or risk removed in order
894 to track if and when the property or risk is later insured by
895 the corporation.

896 6. Any policy taken out, assumed, or removed from the

897 corporation is, as of the effective date of the take-out,
898 assumption, or removal, direct insurance issued by the insurer
899 and not by the corporation, even if the corporation continues to
900 service the policies. This subparagraph applies to policies of
901 the corporation and not policies taken out, assumed, or removed
902 from any other entity.

903 7. For a policy taken out, assumed, or removed from the
904 corporation, the insurer may, for a period of no more than 3
905 years, continue to use any of the corporation's policy forms or
906 endorsements that apply to the policy taken out, removed, or
907 assumed without obtaining approval from the office for use of
908 such policy form or endorsement.

909 (gg) The corporation may adopt policy forms that allow the
910 corporation the option, at its discretion, to repair or replace
911 covered damage with property of like kind and quality rather
912 than paying the value of the loss to the policyholder.

913 Section 3. This act shall take effect July 1, 2013.