

By the Committee on Banking and Insurance

597-02477-14

20141672__

1 A bill to be entitled
2 An act relating to property insurance; amending s.
3 627.351, F.S.; providing exemptions from the
4 restriction on obtaining coverage from Citizens
5 Property Insurance Corporation for major structures
6 under certain conditions; deleting reference to the
7 Residential Property and Casualty Joint Underwriting
8 Association with respect to issuing certain
9 residential or commercial policies; requiring the
10 corporation to cease offering new commercial
11 residential policies providing multiperil coverage
12 after a certain date and providing that the
13 corporation continue offering commercial residential
14 wind-only policies; authorizing the corporation to
15 offer commercial residential policies excluding wind;
16 providing exceptions; specifying the amount of the
17 surcharge to be assessed against personal lines,
18 commercial lines, and coastal accounts to cover a
19 projected deficit; requiring the corporation's board
20 to contract with the Division of Administrative
21 Hearings to hear protests of the corporation's
22 decisions regarding the purchase of commodities and
23 contractual services and issue a recommended order;
24 requiring the board to take final action in a public
25 meeting; revising the date for submitting the annual
26 loss ratio report for residential coverage; amending
27 s. 627.3518, F.S.; defining the term "surplus lines
28 insurer"; requiring the corporation to implement
29 procedures for diverting ineligible applicants and

597-02477-14

20141672__

30 existing policyholders for commercial residential
31 coverage from the corporation by a certain date;
32 deleting the requirement that the corporation report
33 such procedures to the Legislature; authorizing
34 eligible surplus lines insurers to participate in the
35 corporation's clearinghouse program and providing
36 criteria for such eligibility; conforming cross-
37 references; providing that certain applicants who
38 accept an offer from a surplus lines insurer are
39 considered a renewal; repealing s. 627.3519, F.S.,
40 relating to an annual report requirement relating to
41 aggregate net probable maximum losses; amending s.
42 627.35191, F.S.; requiring the corporation to annually
43 provide certain estimates for the next 12-month period
44 to the Legislature and the Financial Services
45 Commission; amending s. 627.701, F.S.; increasing the
46 amount of the deductible that an insurer must offer
47 for residential property insurance; amending s.
48 627.711, F.S.; authorizing the corporation to create
49 an addendum to the uniform mitigation verification
50 form for use by counties under certain circumstances;
51 providing effective dates.

52
53 Be It Enacted by the Legislature of the State of Florida:

54
55
56 Section 1. Paragraphs (a), (b), (e), and (hh) of subsection
57 (6) of section 627.351, Florida Statutes, are amended to read:
58 627.351 Insurance risk apportionment plans.—

597-02477-14

20141672__

59 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

63 1. The Legislature finds that private insurers are
64 unwilling or unable to provide affordable property insurance
65 coverage in this state to the extent sought and needed. The
66 absence of affordable property insurance threatens the public
67 health, safety, and welfare and ~~likewise threatens~~ the economic
68 health of the state. The state, therefore, has a compelling
69 public interest and a public purpose to assist in assuring that
70 property in the state is insured ~~and that it is insured~~ at
71 affordable rates so as to facilitate the remediation,
72 reconstruction, and replacement of damaged or destroyed property
73 in order to reduce or avoid ~~the~~ negative effects on otherwise
74 ~~resulting to~~ the public health, safety, and welfare, to the
75 economy of the state, and to the revenues of the state and local
76 governments which are needed to provide for the public welfare.
77 It is necessary, therefore, to provide affordable property
78 insurance to applicants who are in good faith entitled to
79 procure insurance through the voluntary market but are unable to
80 do so. The Legislature intends, therefore, that affordable
81 property insurance be provided and that it continue to be
82 provided, as long as necessary, through Citizens Property
83 Insurance Corporation, a government entity that is an integral
84 part of the state, ~~and that is~~ not a private insurance company.
85 To that end, the corporation shall strive to increase the
86 availability of affordable property insurance in this state,
87 while achieving efficiencies and economies, and while providing

597-02477-14

20141672__

88 service to policyholders, applicants, and agents which is no
89 less than the quality generally provided in the voluntary
90 market, for the achievement of the foregoing public purposes.
91 Because it is essential for this government entity to have the
92 maximum financial resources to pay claims following a
93 catastrophic hurricane, it is further the intent of the
94 Legislature that the corporation continue to be an integral part
95 of the state, ~~and~~ that the income of the corporation be exempt
96 from federal income taxation, and that interest on the debt
97 obligations issued by the corporation be exempt from federal
98 income taxation.

99 2. The Residential Property and Casualty Joint Underwriting
100 Association originally created by this statute shall be known as
101 the Citizens Property Insurance Corporation. The corporation
102 shall provide insurance for residential and commercial property,
103 for applicants who are entitled, but, in good faith, are unable
104 to procure insurance through the voluntary market. The
105 corporation shall operate pursuant to a plan of operation
106 approved by order of the Financial Services Commission. The plan
107 is subject to continuous review by the commission. The
108 commission may, by order, withdraw approval of all or part of a
109 plan if the commission determines that conditions have changed
110 since approval was granted and that the purposes of the plan
111 require changes in the plan. For the purposes of this
112 subsection, residential coverage includes both personal lines
113 residential coverage, which consists of the type of coverage
114 provided by homeowner's, mobile home owner's, dwelling,
115 tenant's, condominium unit owner's, and similar policies; and
116 commercial lines residential coverage, which consists of the

597-02477-14

20141672__

117 type of coverage provided by condominium association, apartment
118 building, and similar policies.

119 3. With respect to coverage for personal lines residential
120 structures:

121 a. Effective January 1, 2014, a structure that has a
122 dwelling replacement cost of \$1 million or more, or a single
123 condominium unit that has a combined dwelling and contents
124 replacement cost of \$1 million or more is not eligible for
125 coverage by the corporation. Such dwellings insured by the
126 corporation on December 31, 2013, may continue to be covered by
127 the corporation until the end of the policy term. The office
128 shall approve the method used by the corporation for valuing the
129 dwelling replacement costs under ~~cost for the purposes of~~ this
130 subparagraph. If a policyholder is insured by the corporation
131 before being determined to be ineligible pursuant to this
132 subparagraph and such policyholder files a lawsuit challenging
133 the determination, the policyholder may remain insured by the
134 corporation until the conclusion of the litigation.

135 b. Effective January 1, 2015, a structure that has a
136 dwelling replacement cost of \$900,000 or more, or a single
137 condominium unit that has a combined dwelling and contents
138 replacement cost of \$900,000 or more, is not eligible for
139 coverage by the corporation. Such dwellings insured by the
140 corporation on December 31, 2014, may continue to be covered by
141 the corporation only until the end of the policy term.

142 c. Effective January 1, 2016, a structure that has a
143 dwelling replacement cost of \$800,000 or more, or a single
144 condominium unit that has a combined dwelling and contents
145 replacement cost of \$800,000 or more, is not eligible for

597-02477-14

20141672__

146 coverage by the corporation. Such dwellings insured by the
147 corporation on December 31, 2015, may continue to be covered by
148 the corporation until the end of the policy term.

149 d. Effective January 1, 2017, a structure that has a
150 dwelling replacement cost of \$700,000 or more, or a single
151 condominium unit that has a combined dwelling and contents
152 replacement cost of \$700,000 or more, is not eligible for
153 coverage by the corporation. Such dwellings insured by the
154 corporation on December 31, 2016, may continue to be covered by
155 the corporation until the end of the policy term.

156
157 The requirements of sub-subparagraphs b.-d. do not apply in
158 counties where the office determines there is not a reasonable
159 degree of competition. In such counties a personal lines
160 residential structure that has a dwelling replacement cost of
161 less than \$1 million, or a single condominium unit that has a
162 combined dwelling and contents replacement cost of less than \$1
163 million, is eligible for coverage by the corporation.

164 4. It is the intent of the Legislature that policyholders,
165 applicants, and agents of the corporation receive service and
166 treatment of the highest possible level but never less than that
167 generally provided in the voluntary market. It is also intended
168 that the corporation be held to service standards no less than
169 those applied to insurers in the voluntary market by the office
170 with respect to responsiveness, timeliness, customer courtesy,
171 and overall dealings with policyholders, applicants, or agents
172 of the corporation.

173 5.a. Effective January 1, 2009, a personal lines
174 residential structure that is located in the "wind-borne debris

597-02477-14

20141672__

175 region," as defined in s. 1609.2, International Building Code
176 (2006), and that has an insured value on the structure of
177 \$750,000 or more is not eligible for coverage by the corporation
178 unless the structure has opening protections as required under
179 the Florida Building Code for a newly constructed residential
180 structure in that area. A residential structure is deemed to
181 comply with this subparagraph if it has shutters or opening
182 protections on all openings and if such opening protections
183 complied with the Florida Building Code at the time they were
184 installed.

185 b. Any major structure as defined in s. 161.54(6)(a) for
186 which a permit is applied on or after July 1, 2014, for new
187 construction or substantial improvement as defined in s.
188 161.54~~(12)~~ is not eligible for coverage by the corporation if
189 the structure is seaward of the coastal construction control
190 line established pursuant to s. 161.053 or is within the Coastal
191 Barrier Resources System as designated by 16 U.S.C. ss. 3501-
192 3510. The restrictions of this subparagraph imposed on major
193 structures located within the Coastal Barrier Resources System
194 do not apply in a county where the corporation provides
195 windstorm coverage on more than 75 percent of personal lines
196 residential policies.

197 (b)1. All insurers authorized to write one or more subject
198 lines of business in this state are subject to assessment by the
199 corporation and, for the purposes of this subsection, are
200 referred to collectively as "assessable insurers." Insurers
201 writing one or more subject lines of business in this state
202 pursuant to part VIII of chapter 626 are not assessable
203 insurers; however, but insureds who procure one or more subject

597-02477-14

20141672__

204 lines of business in this state pursuant to part VIII of chapter
205 626 are subject to assessment by the corporation and are
206 referred to collectively as "assessable insureds." An insurer's
207 assessment liability begins on the first day of the calendar
208 year following the year in which the insurer was issued a
209 certificate of authority to transact insurance for subject lines
210 of business in this state and terminates 1 year after the end of
211 the first calendar year during which the insurer no longer holds
212 a certificate of authority to transact insurance for subject
213 lines of business in this state.

214 2.a. All revenues, assets, liabilities, losses, and
215 expenses of the corporation shall be divided into three separate
216 accounts as follows:

217 (I) A personal lines account for personal residential
218 policies issued by the corporation, ~~or issued by the Residential~~
219 ~~Property and Casualty Joint Underwriting Association and renewed~~
220 ~~by the corporation,~~ which provides comprehensive, multiperil
221 coverage on risks that are not located in areas eligible for
222 coverage by the Florida Windstorm Underwriting Association as
223 those areas were defined on January 1, 2002, and for policies
224 that do not provide coverage for the peril of wind on risks that
225 are located in such areas;

226 (II) A commercial lines account for commercial residential
227 and commercial nonresidential policies issued by the
228 corporation, ~~or issued by the Residential Property and Casualty~~
229 ~~Joint Underwriting Association and renewed by the corporation,~~
230 which provides coverage for basic property perils on risks that
231 are not located in areas eligible for coverage by the Florida
232 Windstorm Underwriting Association as those areas were defined

597-02477-14

20141672__

233 on January 1, 2002, and for policies that do not provide
234 coverage for the peril of wind on risks that are located in such
235 areas; and

236 (III) A coastal account for personal residential policies
237 and commercial residential and commercial nonresidential
238 property policies issued by the corporation, ~~or transferred to~~
239 ~~the corporation,~~ which provides coverage for the peril of wind
240 on risks that are located in areas eligible for coverage by the
241 Florida Windstorm Underwriting Association as those areas were
242 defined on January 1, 2002. The corporation may offer policies
243 that provide multiperil coverage and ~~the corporation~~ shall
244 ~~continue to~~ offer policies that provide coverage only for the
245 peril of wind for risks located in areas eligible for coverage
246 in the coastal account. Effective July 1, 2014, the corporation
247 shall cease offering new commercial residential policies
248 providing multiperil coverage and shall instead continue to
249 offer commercial residential wind-only policies, and may offer
250 commercial residential policies excluding wind. The corporation
251 may, however, continue to renew a commercial residential
252 multiperil policy on a building that is insured by the
253 corporation on June 30, 2014, under a multiperil policy. In
254 issuing multiperil coverage, the corporation may use its
255 approved policy forms and rates for the personal lines account.
256 An applicant or insured who is eligible to purchase a multiperil
257 policy from the corporation may purchase a multiperil policy
258 from an authorized insurer without prejudice to the applicant's
259 or insured's eligibility to prospectively purchase a policy that
260 provides coverage only for the peril of wind from the
261 corporation. An applicant or insured who is eligible for a

597-02477-14

20141672__

262 corporation policy that provides coverage only for the peril of
263 wind may elect to purchase or retain such policy and also
264 purchase or retain coverage excluding wind from an authorized
265 insurer without prejudice to the applicant's or insured's
266 eligibility to prospectively purchase a policy that provides
267 multiperil coverage from the corporation. It is the goal of the
268 Legislature that there be an overall average savings of 10
269 percent or more for a policyholder who currently has a wind-only
270 policy with the corporation, and an ex-wind policy with a
271 voluntary insurer or the corporation, and who obtains a
272 multiperil policy from the corporation. It is the intent of the
273 Legislature that the offer of multiperil coverage in the coastal
274 account be made and implemented in a manner that does not
275 adversely affect the tax-exempt status of the corporation or
276 creditworthiness of or security for currently outstanding
277 financing obligations or credit facilities of the coastal
278 account, the personal lines account, or the commercial lines
279 account. The coastal account must also include quota share
280 primary insurance under subparagraph (c)2. The area eligible for
281 coverage under the coastal account also includes the area within
282 Port Canaveral, which is bordered on the south by the City of
283 Cape Canaveral, bordered on the west by the Banana River, and
284 bordered on the north by Federal Government property.

285 b. The three separate accounts must be maintained as long
286 as financing obligations entered into by the Florida Windstorm
287 Underwriting Association or Residential Property and Casualty
288 Joint Underwriting Association are outstanding, in accordance
289 with the terms of the corresponding financing documents. If the
290 financing obligations are no longer outstanding, the corporation

597-02477-14

20141672__

291 may use a single account for all revenues, assets, liabilities,
292 losses, and expenses of the corporation. Consistent with this
293 subparagraph and prudent investment policies that minimize the
294 cost of carrying debt, the board shall exercise its best efforts
295 to retire existing debt or obtain the approval of necessary
296 parties to amend the terms of existing debt, so as to structure
297 the most efficient plan for consolidating ~~to consolidate~~ the
298 three separate accounts into a single account.

299 c. Creditors of the Residential Property and Casualty Joint
300 Underwriting Association and the accounts specified in sub-sub-
301 subparagraphs a.(I) and (II) may have a claim against, and
302 recourse to, those accounts and no claim against, or recourse
303 to, the account referred to in sub-sub-subparagraph a.(III).
304 Creditors of the Florida Windstorm Underwriting Association have
305 a claim against, and recourse to, the account referred to in
306 sub-sub-subparagraph a.(III) and no claim against, or recourse
307 to, the accounts referred to in sub-sub-subparagraphs a.(I) and
308 (II).

309 d. Revenues, assets, liabilities, losses, and expenses not
310 attributable to particular accounts shall be prorated among the
311 accounts.

312 e. The Legislature finds that the revenues of the
313 corporation are revenues that are necessary to meet the
314 requirements set forth in documents authorizing the issuance of
315 bonds under this subsection.

316 f. The income of the corporation may not inure to the
317 benefit of any private person.

318 3. With respect to a deficit in an account:

319 a. After accounting for the Citizens policyholder surcharge

597-02477-14

20141672__

320 imposed under sub-subparagraph i., if the remaining projected
321 deficit incurred in the coastal account in a particular calendar
322 year:

323 (I) Is not greater than 2 percent of the aggregate
324 statewide direct written premium for the subject lines of
325 business for the prior calendar year, the entire deficit shall
326 be recovered through regular assessments of assessable insurers
327 under paragraph (q) and assessable insureds.

328 (II) Exceeds 2 percent of the aggregate statewide direct
329 written premium for the subject lines of business for the prior
330 calendar year, the corporation shall levy regular assessments on
331 assessable insurers under paragraph (q) and on assessable
332 insureds in an amount equal to the greater of 2 percent of the
333 projected deficit or 2 percent of the aggregate statewide direct
334 written premium for the subject lines of business for the prior
335 calendar year. Any remaining projected deficit shall be
336 recovered through emergency assessments under sub-subparagraph
337 d.

338 b. Each assessable insurer's share of the amount being
339 assessed under sub-subparagraph a. must be in the proportion
340 that the assessable insurer's direct written premium for the
341 subject lines of business for the year preceding the assessment
342 bears to the aggregate statewide direct written premium for the
343 subject lines of business for that year. The assessment
344 percentage applicable to each assessable insured is the ratio of
345 the amount being assessed under sub-subparagraph a. to the
346 aggregate statewide direct written premium for the subject lines
347 of business for the prior year. Assessments levied by the
348 corporation on assessable insurers under sub-subparagraph a.

597-02477-14

20141672__

349 must be paid as required by the corporation's plan of operation
350 and paragraph (q). Assessments levied by the corporation on
351 assessable insureds under sub-subparagraph a. shall be collected
352 by the surplus lines agent at the time the surplus lines agent
353 collects the surplus lines tax required by s. 626.932, and paid
354 to the Florida Surplus Lines Service Office at the time the
355 surplus lines agent pays the surplus lines tax to that office.
356 Upon receipt of regular assessments from surplus lines agents,
357 the Florida Surplus Lines Service Office shall transfer the
358 assessments directly to the corporation as determined by the
359 corporation.

360 c. After accounting for the Citizens policyholder surcharge
361 imposed under sub-subparagraph i., the remaining projected
362 deficits in the personal lines account and in the commercial
363 lines account in a particular calendar year shall be recovered
364 through emergency assessments under sub-subparagraph d.

365 d. Upon a determination by the board of governors that a
366 projected deficit in an account exceeds the amount that is
367 expected to be recovered through regular assessments under sub-
368 subparagraph a., plus the amount that is expected to be
369 recovered through surcharges under sub-subparagraph i., the
370 board, after verification by the office, shall levy emergency
371 assessments for as many years as necessary to cover the
372 deficits, to be collected by assessable insurers and the
373 corporation and collected from assessable insureds upon issuance
374 or renewal of policies for subject lines of business, excluding
375 National Flood Insurance policies. The amount collected in a
376 particular year must be a uniform percentage of that year's
377 direct written premium for subject lines of business and all

597-02477-14

20141672__

378 accounts of the corporation, excluding National Flood Insurance
379 Program policy premiums, as annually determined by the board and
380 verified by the office. The office shall verify the arithmetic
381 calculations involved in the board's determination within 30
382 days after receipt of the information on which the determination
383 was based. The office shall notify assessable insurers and the
384 Florida Surplus Lines Service Office of the date on which
385 assessable insurers shall begin to collect and assessable
386 insureds shall begin to pay such assessment. The date must be at
387 least ~~may be not less than~~ 90 days after the date the
388 corporation levies emergency assessments pursuant to this sub-
389 subparagraph. Notwithstanding any other provision of law, the
390 corporation and each assessable insurer that writes subject
391 lines of business shall collect emergency assessments from its
392 policyholders without such obligation being affected by any
393 credit, limitation, exemption, or deferment. Emergency
394 assessments levied by the corporation on assessable insureds
395 shall be collected by the surplus lines agent at the time the
396 surplus lines agent collects the surplus lines tax required by
397 s. 626.932 and paid to the Florida Surplus Lines Service Office
398 at the time the surplus lines agent pays the surplus lines tax
399 to that office. The emergency assessments collected shall be
400 transferred directly to the corporation on a periodic basis as
401 determined by the corporation and held by the corporation solely
402 in the applicable account. The aggregate amount of emergency
403 assessments levied for an account ~~under this sub-subparagraph~~ in
404 any calendar year may be less than but may not exceed the
405 greater of 10 percent of the amount needed to cover the deficit,
406 plus interest, fees, commissions, required reserves, and other

597-02477-14

20141672__

407 costs associated with financing the original deficit, or 10
408 percent of the aggregate statewide direct written premium for
409 subject lines of business and all accounts of the corporation
410 for the prior year, plus interest, fees, commissions, required
411 reserves, and other costs associated with financing the deficit.

412 e. The corporation may pledge the proceeds of assessments,
413 projected recoveries from the Florida Hurricane Catastrophe
414 Fund, other insurance and reinsurance recoverables, policyholder
415 surcharges and other surcharges, and other funds available to
416 the corporation as the source of revenue for and to secure bonds
417 issued under paragraph (q), bonds or other indebtedness issued
418 under subparagraph (c)3., or lines of credit or other financing
419 mechanisms issued or created under this subsection, or to retire
420 any other debt incurred as a result of deficits or events giving
421 rise to deficits, or in any other way that the board determines
422 will efficiently recover such deficits. The purpose of the lines
423 of credit or other financing mechanisms is to provide additional
424 resources to assist the corporation in covering claims and
425 expenses attributable to a catastrophe. As used in this
426 subsection, the term "assessments" includes regular assessments
427 under sub-subparagraph a. or subparagraph (q)1. and emergency
428 assessments under sub-subparagraph d. Emergency assessments
429 collected under sub-subparagraph d. are not part of an insurer's
430 rates, are not premium, and are not subject to premium tax,
431 fees, or commissions; however, failure to pay the emergency
432 assessment shall be treated as failure to pay premium. The
433 emergency assessments ~~under sub-subparagraph d.~~ shall continue
434 as long as any bonds issued or other indebtedness incurred with
435 respect to a deficit for which the assessment was imposed remain

597-02477-14

20141672__

436 outstanding, unless adequate provision has been made for the
437 payment of such bonds or other indebtedness pursuant to the
438 documents governing such bonds or indebtedness.

439 f. As used in this subsection for purposes of any deficit
440 incurred on or after January 25, 2007, the term "subject lines
441 of business" means insurance written by assessable insurers or
442 procured by assessable insureds for all property and casualty
443 lines of business in this state, but not including workers'
444 compensation or medical malpractice. As used in this sub-
445 subparagraph, the term "property and casualty lines of business"
446 includes all lines of business identified on Form 2, Exhibit of
447 Premiums and Losses, in the annual statement required of
448 authorized insurers under s. 624.424 and any rule adopted under
449 this section, except for those lines identified as accident and
450 health insurance and except for policies written under the
451 National Flood Insurance Program or the Federal Crop Insurance
452 Program. For purposes of this sub-subparagraph, the term
453 "workers' compensation" includes both workers' compensation
454 insurance and excess workers' compensation insurance.

455 g. The Florida Surplus Lines Service Office shall determine
456 annually the aggregate statewide written premium in subject
457 lines of business procured by assessable insureds and report
458 that information to the corporation in a form and at a time the
459 corporation specifies to ensure that the corporation can meet
460 the requirements of this subsection and the corporation's
461 financing obligations.

462 h. The Florida Surplus Lines Service Office shall verify
463 the proper application by surplus lines agents of assessment
464 percentages for regular assessments and emergency assessments

597-02477-14

20141672__

465 levied under this subparagraph on assessable insureds and assist
466 the corporation in ensuring the accurate, timely collection and
467 payment of assessments by surplus lines agents as required by
468 the corporation.

469 i. ~~In 2008 or thereafter,~~ Upon a determination by the board
470 of governors that an account has a projected deficit, the board
471 shall levy a Citizens policyholder surcharge against all
472 policyholders of the corporation.

473 (I) The surcharge shall be levied as a uniform percentage
474 of the premium for all corporation policyholders ~~for the policy~~
475 of up to 10 percent of the policy premium for deficits in the
476 personal lines account, up to 15 percent of the policy such
477 premium for deficits in the commercial lines account, and up to
478 20 percent of the policy premium for deficits in the coastal
479 account, which funds shall be used to offset the deficit.

480 (II) The surcharge is payable upon cancellation or
481 termination of the policy, upon renewal of the policy, or upon
482 issuance of a new policy by the corporation within the first 12
483 months after the date of the levy or the period of time
484 necessary to fully collect the surcharge amount.

485 (III) The corporation may not levy any regular assessments
486 under paragraph (q) pursuant to sub-subparagraph a. or sub-
487 subparagraph b. with respect to a particular year's deficit
488 until the corporation has first levied the full amount of the
489 surcharge authorized by this sub-subparagraph.

490 (IV) The surcharge is not considered premium and is not
491 subject to commissions, fees, or premium taxes. However, failure
492 to pay the surcharge shall be treated as failure to pay premium.

493 j. If the amount of any assessments or surcharges collected

597-02477-14

20141672__

494 from corporation policyholders, assessable insurers or their
495 policyholders, or assessable insureds exceeds the amount of the
496 deficits, such excess amounts shall be remitted to and retained
497 by the corporation in a reserve to be used by the corporation,
498 as determined by the board of governors and approved by the
499 office, to pay claims or reduce any past, present, or future
500 plan-year deficits or to reduce outstanding debt.

501 (e) The corporation is subject to s. 287.057 for the
502 purchase of commodities and contractual services except as
503 otherwise provided in this paragraph. Services provided by
504 tradepersons or technical experts to assist a licensed adjuster
505 in the evaluation of individual claims are not subject to the
506 procurement requirements of this section. Additionally, the
507 procurement of financial services providers and underwriters
508 must be made pursuant to s. 627.3513. Contracts for goods or
509 services valued at or more than \$100,000 are subject to approval
510 by the board.

511 1. The corporation is an agency for purposes of s. 287.057,
512 except that, for purposes of s. 287.057(22), the corporation is
513 an eligible user.

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

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

520 2. The corporation must provide notice of a decision or
521 intended decision concerning a solicitation, contract award, or
522 exceptional purchase by electronic posting. Such notice must

597-02477-14

20141672__

523 contain the following statement: "Failure to file a protest
524 within the time prescribed in this section constitutes a waiver
525 of proceedings."

526 a. A person adversely affected by the corporation's
527 decision or intended decision to award a contract pursuant to s.
528 287.057(1) or (3)(c) who elects to challenge the decision must
529 file a written notice of protest with the executive director of
530 the corporation within 72 hours after the corporation posts a
531 notice of its decision or intended decision. For a protest of
532 the terms, conditions, and specifications contained in a
533 solicitation, including ~~any~~ provisions governing the methods for
534 ranking bids, proposals, replies, awarding contracts, reserving
535 rights of further negotiation, or modifying or amending any
536 contract, the notice of protest must be filed in writing within
537 72 hours after ~~the~~ posting ~~of~~ the solicitation. Saturdays,
538 Sundays, and state holidays are excluded in the computation of
539 the 72-hour time period.

540 b. A formal written protest must be filed within 10 days
541 after the date the notice of protest is filed. The formal
542 written protest must state with particularity the facts and law
543 upon which the protest is based. Upon receipt of a formal
544 written protest that has been timely filed, the corporation must
545 stop the solicitation or contract award process until the
546 subject of the protest is resolved by final board action unless
547 the executive director sets forth in writing particular facts
548 and circumstances that require the continuance of the
549 solicitation or contract award process without delay in order to
550 avoid an immediate and serious danger to the public health,
551 safety, or welfare.

597-02477-14

20141672__

552 (I) The corporation must provide an opportunity to resolve
553 the protest by mutual agreement between the parties within 7
554 business days after receipt of the formal written protest.

555 (II) If the subject of a protest is not resolved by mutual
556 agreement within 7 business days, the corporation's board must
557 transmit the protest to the Division of Administrative Hearings
558 and contract with the division to conduct a hearing to determine
559 the merits of the protest and to issue a recommended order ~~place~~
560 ~~the protest on the agenda and resolve it at its next regularly~~
561 ~~scheduled meeting.~~ The contract must provide for the corporation
562 to reimburse the division for any costs incurred by the division
563 for court reporters, transcript preparation, travel, facility
564 rental, and other customary hearing costs in the manner set
565 forth in s. 120.65(9). The division has jurisdiction to
566 determine the facts and law concerning the protest and to issue
567 a recommended order. The division's rules and procedures apply
568 to these proceedings; the division's applicable bond
569 requirements do not apply. The protest must be heard by the
570 division ~~board~~ at a publicly noticed meeting in accordance with
571 procedures established by the division ~~board~~.

572 c. In a protest of an invitation-to-bid or request-for-
573 proposals procurement, submissions made after the bid or
574 proposal opening which amend or supplement the bid or proposal
575 may not be considered. In protesting an invitation-to-negotiate
576 procurement, submissions made after the corporation announces
577 its intent to award a contract, reject all replies, or withdraw
578 the solicitation that amends or supplements the reply may not be
579 considered. Unless otherwise provided by law, the burden of
580 proof rests with the party protesting the corporation's action.

597-02477-14

20141672__

581 In a competitive-procurement protest, other than a rejection of
582 all bids, proposals, or replies, the corporation's board must
583 conduct a de novo proceeding to determine whether the
584 corporation's proposed action is contrary to the corporation's
585 governing statutes, the corporation's rules or policies, or the
586 solicitation specifications. The standard of proof for the
587 proceeding is whether the corporation's action was clearly
588 erroneous, contrary to competition, arbitrary, or capricious. In
589 any bid-protest proceeding contesting an intended corporation
590 action to reject all bids, proposals, or replies, the standard
591 of review by the board is whether the corporation's intended
592 action is illegal, arbitrary, dishonest, or fraudulent.

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

595 3. The board, acting as agency head, shall consider the
596 recommended order of an administrative law judge in a public
597 meeting and take final action on the protest. ~~Contract actions~~
598 and decisions by the board under this paragraph are final. Any
599 further legal remedy lies with the First District Court of
600 Appeal ~~must be made in the Circuit Court of Leon County.~~

601 (hh) The corporation shall ~~must~~ prepare a report for each
602 calendar year outlining both the statewide average and county-
603 specific details of the loss ratio attributable to losses that
604 are not catastrophic losses for residential coverage provided by
605 the corporation, which information must be presented to the
606 office and available for public inspection on the Internet
607 website of the corporation by March 1 ~~January 15th~~ of the
608 following calendar year.

609 Section 2. Paragraph (e) is added to subsection (1) of

597-02477-14

20141672__

610 section 627.3518, Florida Statutes, subsection (2) and paragraph
611 (e) of subsection (4) of that section are amended, present
612 subsections (5) through (10) of that section are redesignated as
613 subsections (6) through (11), respectively, present subsection
614 (11) is redesignated as subsection (13), new subsections (5) and
615 (12) are added to that section, and present subsections (5)
616 through (7) of that section are amended, to read:

617 627.3518 Citizens Property Insurance Corporation
618 policyholder eligibility clearinghouse program.—The purpose of
619 this section is to provide a framework for the corporation to
620 implement a clearinghouse program by January 1, 2014.

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

622 (e) "Surplus lines insurer" means an unauthorized insurer
623 that has been made eligible by the office to issue coverage
624 under the Surplus Lines Law.

625 (2) In order to confirm eligibility with the corporation
626 and to enhance the access of new applicants for coverage and
627 existing policyholders of the corporation to offers of coverage
628 from authorized insurers and surplus lines insurers, the
629 corporation shall establish a program for personal residential
630 risks in order to facilitate the diversion of ineligible
631 applicants and existing policyholders ~~from the corporation~~ into
632 the voluntary insurance market. The corporation shall also
633 develop appropriate procedures for facilitating the diversion of
634 ineligible applicants and existing policyholders for commercial
635 residential coverage into the private insurance market and
636 implement these procedures by October 1, 2015 ~~shall report such~~
637 ~~procedures to the President of the Senate and the Speaker of the~~
638 ~~House of Representatives by January 1, 2014.~~

597-02477-14

20141672__

639 (4) Any authorized insurer may participate in the program;
640 however, participation is not mandatory for any insurer.
641 Insurers making offers of coverage to new applicants or renewal
642 policyholders through the program:

643 (e) May participate through their single-designated
644 managing general agent or broker; however, the provisions of
645 paragraph (7) (a) ~~(6) (a)~~ regarding ownership, control, and use of
646 the expirations continue to apply.

647 (5) Effective January 1, 2015, an eligible surplus lines
648 insurer may make an offer of similar coverage on a risk
649 submitted through the clearinghouse program if no offers of
650 coverage were submitted by authorized insurers participating in
651 the program and the office determines that the eligible surplus
652 lines insurer:

653 (a) Maintains a surplus of \$50 million on a company or
654 pooled basis;

655 (b) Is rated as having a superior, excellent, exceptional,
656 or equally comparable financial strength by a rating agency
657 acceptable to the office;

658 (c) Maintains reserves, surplus, reinsurance, and
659 reinsurance equivalents to cover the eligible surplus lines
660 insurer's 100-year probable maximum hurricane loss at least
661 twice in a single hurricane season, and submits such reinsurance
662 to the office for review for purposes of participation in the
663 program; and

664 (d) Provides prominent notice to the policyholder:

665 1. That the policyholder does not have to accept an offer
666 of coverage from a surplus lines insurer;

667 2. That an offer of coverage from a surplus lines insurer

597-02477-14

20141672__

668 does not affect whether the policyholder is eligible for
669 coverage from the corporation;

670 3. That a policyholder who accepts an offer of coverage
671 from a surplus lines insurer may, at any time, submit a new
672 application for coverage to the corporation;

673 4. That surplus lines policies are not covered by the
674 Florida Insurance Guaranty Association;

675 5. That rates for surplus lines insurance are not subject
676 to review by the office; and

677 6. Of any additional information required by the office.
678

679 Such notice must be signed by the policyholder and kept on file
680 with the surplus lines insurer for as long as the policyholder
681 remains insured by the surplus lines insurer.

682 (6)(5) Notwithstanding s. 627.3517, an any applicant for
683 new coverage from the corporation is not eligible for coverage
684 from the corporation if provided an offer of coverage from an
685 authorized insurer through the program at a premium that is at
686 or below the eligibility threshold established in s.
687 627.351(6)(c)5.a. or b. Whenever an offer of coverage for a
688 personal lines or commercial lines residential risk is received
689 for a policyholder of the corporation at renewal from an
690 authorized insurer through the program, if the offer is equal to
691 or less than the corporation's renewal premium for comparable
692 coverage, the risk is not eligible for coverage with the
693 corporation. If ~~In the event~~ an offer of coverage for a new
694 applicant is received from an authorized insurer through the
695 program, and the premium offered exceeds the eligibility
696 threshold contained in s. 627.351(6)(c)5.a. or b., the applicant

597-02477-14

20141672__

697 or insured may elect to accept such coverage, or may elect to
698 accept or continue coverage with the corporation. If ~~In the~~
699 ~~event~~ an offer of coverage for a personal lines or commercial
700 lines residential risk is received from an authorized insurer at
701 renewal through the program~~7~~ and if the premium offered is more
702 than the corporation's renewal premium for comparable coverage,
703 the insured may elect to accept such coverage~~7~~ or may elect to
704 accept or continue coverage with the corporation. Section
705 627.351(6)(c)5.a.(I) or b.(I) does not apply to an offer of
706 coverage from an authorized insurer obtained through the
707 program. An applicant for personal lines residential coverage
708 from the corporation who was declared ineligible for coverage at
709 renewal by the corporation in the previous 36 months due to an
710 offer of coverage pursuant to this subsection is ~~shall be~~
711 considered a renewal under this section if the corporation
712 determines that the authorized insurer making the offer of
713 coverage pursuant to this subsection continues to insure the
714 applicant and increased the rate on the policy in excess of the
715 increase allowed for the corporation under s. 627.351(6)(n)6.

716 (7)~~(6)~~ Independent insurance agents submitting new
717 applications for coverage or that are the agent of record on a
718 renewal policy submitted to the program:

719 (a) Are granted and must maintain ownership and the
720 exclusive use of expirations, records, or other written or
721 electronic information directly related to such applications or
722 renewals written through the corporation or through an insurer
723 participating in the program, notwithstanding s.

724 627.351(6)(c)5.a.(I)(B) and (II)(B) and b.(I)(B) and (II)(B).
725 Such ownership is granted for as long as the insured remains

597-02477-14

20141672__

726 with the agency or until sold or surrendered in writing by the
 727 agent. Contracts with the corporation or required by the
 728 corporation must not amend, modify, interfere with, or limit
 729 such rights of ownership. Such expirations, records, or other
 730 written or electronic information may be used to review an
 731 application, issue a policy, or for any other purpose necessary
 732 for placing such business through the program.

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

736 (c) May accept an appointment from an ~~any~~ insurer
 737 participating in the program.

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

740

741 Applicants ineligible for coverage in accordance with subsection
 742 (6) ~~(5)~~ remain ineligible if their independent agent is
 743 unwilling or unable to enter into a standard or limited agency
 744 agreement with an insurer participating in the program.

745 (8) ~~(7)~~ Exclusive agents submitting new applications for
 746 coverage or that are the agent of record on a renewal policy
 747 submitted to the program:

748 (a) Must maintain ownership and the exclusive use of
 749 expirations, records, or other written or electronic information
 750 directly related to such applications or renewals written
 751 through the corporation or through an insurer participating in
 752 the program, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and
 753 (II)(B) and b.(I)(B) and (II)(B). Contracts with the corporation
 754 or required by the corporation must not amend, modify, interfere

597-02477-14

20141672__

755 with, or limit such rights of ownership. Such expirations,
756 records, or other written or electronic information may be used
757 to review an application, issue a policy, or for any other
758 purpose necessary for placing such business through the program.

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

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

765 (d) May enter into a limited servicing agreement with the
766 insurer making an offer of coverage, and only after the
767 exclusive agent's insurer has approved the limited servicing
768 agreement terms. The exclusive agent's insurer must approve a
769 limited service agreement for the program for an ~~any~~ insurer for
770 which it has approved a service agreement for other purposes.

771
772 Applicants ineligible for coverage in accordance with subsection
773 (6) ~~(5)~~ remain ineligible if their exclusive agent is unwilling
774 or unable to enter into a standard or limited agency agreement
775 with an insurer making an offer of coverage to that applicant.

776 (12) An applicant for coverage from the corporation who was
777 a policyholder of the corporation within the previous 36 months
778 and who subsequently accepted an offer of coverage from a
779 surplus lines insurer is considered a renewal under this
780 section.

781 Section 3. Section 627.3519, Florida Statutes, is repealed.

782 Section 4. Section 627.35191, Florida Statutes, is amended
783 to read:

597-02477-14

20141672__

784 627.35191 Required reports ~~Annual report of aggregate net~~
785 ~~probable maximum losses, financing options, and potential~~
786 ~~assessments.-~~

787 (1) By ~~No later than~~ February 1 of each year, the Florida
788 Hurricane Catastrophe Fund and Citizens Property Insurance
789 Corporation shall each submit a report to the Legislature and
790 the Financial Services Commission identifying their respective
791 aggregate net probable maximum losses, financing options, and
792 potential assessments. The report issued by the fund and the
793 corporation must include their respective 50-year, 100-year, and
794 250-year probable maximum losses; analysis of all reasonable
795 financing strategies for each such probable maximum loss,
796 including the amount and term of debt instruments; specification
797 of the percentage assessments that would be needed to support
798 each of the financing strategies; and calculations of the
799 aggregate assessment burden on Florida property and casualty
800 policyholders for each of the probable maximum losses.

801 (2) In May of each year, Citizens Property Insurance
802 Corporation shall also provide to the Legislature and the
803 Financial Services Commission a statement of the estimated
804 borrowing capacity of the corporation for the next 12-month
805 period, the estimated claims-paying capacity of the corporation,
806 and the corporation's estimated balance as of December 31 of the
807 current calendar year. Such estimates must take into account
808 that the corporation, the Florida Hurricane Catastrophe Fund,
809 and the Florida Insurance Guaranty Association may all be
810 concurrently issuing debt instruments following a catastrophic
811 event.

812 Section 5. Effective January 1, 2015, subsection (7) of

597-02477-14

20141672__

813 section 627.701, Florida Statutes, is amended to read:

814 627.701 Liability of insureds; coinsurance; deductibles.—

815 (7) Before ~~Prior to~~ issuing a personal lines residential
 816 property insurance policy on or after January 1, 2015 ~~April 1,~~
 817 ~~1997,~~ or before ~~prior to~~ the first renewal of a residential
 818 property insurance policy on or after January 1, 2015 ~~April 1,~~
 819 ~~1997,~~ the insurer must offer a deductible equal to \$1,000 ~~\$500~~
 820 applicable to losses from perils other than hurricane. The
 821 insurer must provide the policyholder with notice of the
 822 availability of the deductible specified in this subsection in a
 823 form approved by the office at least once every 3 years. The
 824 failure to provide such notice constitutes a violation of this
 825 code but does not affect the coverage provided under the policy.
 826 An insurer may require a higher deductible only as part of a
 827 deductible program lawfully in effect on June 1, 1996, or as
 828 part of a similar deductible program.

829 Section 6. Subsection (9) is added to section 627.711,
 830 Florida Statutes, to read:

831 627.711 Notice of premium discounts for hurricane loss
 832 mitigation; uniform mitigation verification inspection form.—

833 (9) Citizens Property Insurance Corporation may create an
 834 addendum to the uniform mitigation verification form for use by
 835 a county when applying mitigation credits if that county has:

836 (a) Implemented a building code that is more stringent than
 837 the highest code recognized on the uniform mitigation
 838 verification form; and

839 (b) Completed a study verifying the use of the more
 840 stringent code.

841 Section 7. Except as otherwise expressly provided in this

597-02477-14

20141672__

842 act, this act shall take effect July 1, 2014.