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Proposed Committee Substitute by the Committee on Appropriations  
(Appropriations Subcommittee on General Government)

A bill to be entitled

An act relating to operations of the Citizens Property Insurance Corporation; amending s. 627.351, F.S.; specifying that a consumer representative appointed by the Governor to the Citizens Property Insurance Corporation's board of governors is not prohibited from practicing in a certain profession if required or permitted by law or ordinance; revising the requirements for licensed agents of the corporation; authorizing the use of specified information by certain entities in analyzing risks and prohibiting the use of such information for the direct solicitation of policyholders; requiring the take-out program to be revised for specified purposes; requiring policyholders after a specified date to receive certain information relating to a demonstration of interest to insure by private insurers; requiring the corporation to develop uniform formats for certain information; allowing a policyholder to elect to limit the frequency of solicitations for take-out offers; providing circumstances under which a policyholder whose policy was taken out to be considered a renewal policyholder for certain rate increase purposes; providing an effective date.

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



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Section 1. Paragraphs (c) and (x) of subsection (6) of section 627.351, Florida Statutes, are amended, and paragraph (ii) is added to that subsection, to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(c) The corporation's plan of operation:

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

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

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

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

d. Personal lines and commercial lines residential property insurance forms that cover the peril of wind only. The forms are applicable only to residential properties located in areas



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57 eligible for coverage under the coastal account referred to in  
58 sub-subparagraph (b)2.a.

59 e. Commercial lines nonresidential property insurance forms  
60 that cover the peril of wind only. The forms are applicable only  
61 to nonresidential properties located in areas eligible for  
62 coverage under the coastal account referred to in sub-  
63 subparagraph (b)2.a.

64 f. The corporation may adopt variations of the policy forms  
65 listed in sub-subparagraphs a.-e. which contain more restrictive  
66 coverage.

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

71 2. Must provide that the corporation adopt a program in  
72 which the corporation and authorized insurers enter into quota  
73 share primary insurance agreements for hurricane coverage, as  
74 defined in s. 627.4025(2)(a), for eligible risks, and adopt  
75 property insurance forms for eligible risks which cover the  
76 peril of wind only.

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

78 (I) "Quota share primary insurance" means an arrangement in  
79 which the primary hurricane coverage of an eligible risk is  
80 provided in specified percentages by the corporation and an  
81 authorized insurer. The corporation and authorized insurer are  
82 each solely responsible for a specified percentage of hurricane  
83 coverage of an eligible risk as set forth in a quota share  
84 primary insurance agreement between the corporation and an  
85 authorized insurer and the insurance contract. The



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86 responsibility of the corporation or authorized insurer to pay  
87 its specified percentage of hurricane losses of an eligible  
88 risk, as set forth in the agreement, may not be altered by the  
89 inability of the other party to pay its specified percentage of  
90 losses. Eligible risks that are provided hurricane coverage  
91 through a quota share primary insurance arrangement must be  
92 provided policy forms that set forth the obligations of the  
93 corporation and authorized insurer under the arrangement,  
94 clearly specify the percentages of quota share primary insurance  
95 provided by the corporation and authorized insurer, and  
96 conspicuously and clearly state that the authorized insurer and  
97 the corporation may not be held responsible beyond their  
98 specified percentage of coverage of hurricane losses.

99 (II) "Eligible risks" means personal lines residential and  
100 commercial lines residential risks that meet the underwriting  
101 criteria of the corporation and are located in areas that were  
102 eligible for coverage by the Florida Windstorm Underwriting  
103 Association on January 1, 2002.

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

107 c. If the corporation determines that additional coverage  
108 levels are necessary to maximize participation in quota share  
109 primary insurance agreements by authorized insurers, the  
110 corporation may establish additional coverage levels. However,  
111 the corporation's quota share primary insurance coverage level  
112 may not exceed 90 percent.

113 d. Any quota share primary insurance agreement entered into  
114 between an authorized insurer and the corporation must provide



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115 for a uniform specified percentage of coverage of hurricane  
116 losses, by county or territory as set forth by the corporation  
117 board, for all eligible risks of the authorized insurer covered  
118 under the agreement.

119 e. Any quota share primary insurance agreement entered into  
120 between an authorized insurer and the corporation is subject to  
121 review and approval by the office. However, such agreement shall  
122 be authorized only as to insurance contracts entered into  
123 between an authorized insurer and an insured who is already  
124 insured by the corporation for wind coverage.

125 f. For all eligible risks covered under quota share primary  
126 insurance agreements, the exposure and coverage levels for both  
127 the corporation and authorized insurers shall be reported by the  
128 corporation to the Florida Hurricane Catastrophe Fund. For all  
129 policies of eligible risks covered under such agreements, the  
130 corporation and the authorized insurer must maintain complete  
131 and accurate records for the purpose of exposure and loss  
132 reimbursement audits as required by fund rules. The corporation  
133 and the authorized insurer shall each maintain duplicate copies  
134 of policy declaration pages and supporting claims documents.

135 g. The corporation board shall establish in its plan of  
136 operation standards for quota share agreements which ensure that  
137 there is no discriminatory application among insurers as to the  
138 terms of the agreements, pricing of the agreements, incentive  
139 provisions if any, and consideration paid for servicing policies  
140 or adjusting claims.

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



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144 not limited to, the sale and servicing of policies issued under  
145 the agreement by the insurance agent of the authorized insurer  
146 producing the business, the reporting of information concerning  
147 eligible risks, the payment of premium to the corporation, and  
148 arrangements for the adjustment and payment of hurricane claims  
149 incurred on eligible risks by the claims adjuster and personnel  
150 of the authorized insurer. Entering into a quota sharing  
151 insurance agreement between the corporation and an authorized  
152 insurer is voluntary and at the discretion of the authorized  
153 insurer.

154       3. May provide that the corporation may employ or otherwise  
155 contract with individuals or other entities to provide  
156 administrative or professional services that may be appropriate  
157 to effectuate the plan. The corporation may borrow funds by  
158 issuing bonds or by incurring other indebtedness, and shall have  
159 other powers reasonably necessary to effectuate the requirements  
160 of this subsection, including, without limitation, the power to  
161 issue bonds and incur other indebtedness in order to refinance  
162 outstanding bonds or other indebtedness. The corporation may  
163 seek judicial validation of its bonds or other indebtedness  
164 under chapter 75. The corporation may issue bonds or incur other  
165 indebtedness, or have bonds issued on its behalf by a unit of  
166 local government pursuant to subparagraph (q)2. in the absence  
167 of a hurricane or other weather-related event, upon a  
168 determination by the corporation, subject to approval by the  
169 office, that such action would enable it to efficiently meet the  
170 financial obligations of the corporation and that such  
171 financings are reasonably necessary to effectuate the  
172 requirements of this subsection. The corporation may take all



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173 actions needed to facilitate tax-free status for such bonds or  
174 indebtedness, including formation of trusts or other affiliated  
175 entities. The corporation may pledge assessments, projected  
176 recoveries from the Florida Hurricane Catastrophe Fund, other  
177 reinsurance recoverables, policyholder surcharges and other  
178 surcharges, and other funds available to the corporation as  
179 security for bonds or other indebtedness. In recognition of s.  
180 10, Art. I of the State Constitution, prohibiting the impairment  
181 of obligations of contracts, it is the intent of the Legislature  
182 that no action be taken whose purpose is to impair any bond  
183 indenture or financing agreement or any revenue source committed  
184 by contract to such bond or other indebtedness.

185 4. Must require that the corporation operate subject to the  
186 supervision and approval of a board of governors consisting of  
187 nine individuals who are residents of this state and who are  
188 from different geographical areas of the state, one of whom is  
189 appointed by the Governor and serves solely to advocate on  
190 behalf of the consumer. The appointment of a consumer  
191 representative by the Governor is deemed to be within the scope  
192 of the exemption provided in s. 112.313(7)(b) and is in addition  
193 to the appointments authorized under sub-subparagraph a.

194 a. The Governor, the Chief Financial Officer, the President  
195 of the Senate, and the Speaker of the House of Representatives  
196 shall each appoint two members of the board. At least one of the  
197 two members appointed by each appointing officer must have  
198 demonstrated expertise in insurance and be deemed to be within  
199 the scope of the exemption provided in s. 112.313(7)(b). The  
200 Chief Financial Officer shall designate one of the appointees as  
201 chair. All board members serve at the pleasure of the appointing



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202 officer. All members of the board are subject to removal at will  
203 by the officers who appointed them. All board members, including  
204 the chair, must be appointed to serve for 3-year terms beginning  
205 annually on a date designated by the plan. However, for the  
206 first term beginning on or after July 1, 2009, each appointing  
207 officer shall appoint one member of the board for a 2-year term  
208 and one member for a 3-year term. A board vacancy shall be  
209 filled for the unexpired term by the appointing officer. The  
210 Chief Financial Officer shall appoint a technical advisory group  
211 to provide information and advice to the board in connection  
212 with the board's duties under this subsection. The executive  
213 director and senior managers of the corporation shall be engaged  
214 by the board and serve at the pleasure of the board. Any  
215 executive director appointed on or after July 1, 2006, is  
216 subject to confirmation by the Senate. The executive director is  
217 responsible for employing other staff as the corporation may  
218 require, subject to review and concurrence by the board.

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

224       (I) The members of the advisory committee consist of the  
225 following 11 persons, one of whom must be elected chair by the  
226 members of the committee: four representatives, one appointed by  
227 the Florida Association of Insurance Agents, one by the Florida  
228 Association of Insurance and Financial Advisors, one by the  
229 Professional Insurance Agents of Florida, and one by the Latin  
230 American Association of Insurance Agencies; three





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231 representatives appointed by the insurers with the three highest  
232 voluntary market share of residential property insurance  
233 business in the state; one representative from the Office of  
234 Insurance Regulation; one consumer appointed by the board who is  
235 insured by the corporation at the time of appointment to the  
236 committee; one representative appointed by the Florida  
237 Association of Realtors; and one representative appointed by the  
238 Florida Bankers Association. All members shall be appointed to  
239 3-year terms and may serve for consecutive terms.

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

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

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



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260 renewal from an authorized insurer, if the offer is equal to or  
261 less than the corporation's renewal premium for comparable  
262 coverage, the risk is not eligible for coverage with the  
263 corporation. If the risk is not able to obtain such offer, the  
264 risk is eligible for a standard policy including wind coverage  
265 or a basic policy including wind coverage issued by the  
266 corporation; however, if the risk could not be insured under a  
267 standard policy including wind coverage regardless of market  
268 conditions, the risk is eligible for a basic policy including  
269 wind coverage unless rejected under subparagraph 8. However, a  
270 policyholder removed from the corporation through an assumption  
271 agreement remains eligible for coverage from the corporation  
272 until the end of the assumption period. The corporation shall  
273 determine the type of policy to be provided on the basis of  
274 objective standards specified in the underwriting manual and  
275 based on generally accepted underwriting practices.

276 (I) If the risk accepts an offer of coverage through the  
277 market assistance plan or through a mechanism established by the  
278 corporation other than a plan established by s. 627.3518, before  
279 a policy is issued to the risk by the corporation or during the  
280 first 30 days of coverage by the corporation, and the producing  
281 agent who submitted the application to the plan or to the  
282 corporation is not currently appointed by the insurer, the  
283 insurer shall:

284 (A) Pay to the producing agent of record of the policy for  
285 the first year, an amount that is the greater of the insurer's  
286 usual and customary commission for the type of policy written or  
287 a fee equal to the usual and customary commission of the  
288 corporation; or



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289 (B) Offer to allow the producing agent of record of the  
290 policy to continue servicing the policy for at least 1 year and  
291 offer to pay the agent the greater of the insurer's or the  
292 corporation's usual and customary commission for the type of  
293 policy written.

294  
295 If the producing agent is unwilling or unable to accept  
296 appointment, the new insurer shall pay the agent in accordance  
297 with sub-sub-sub-subparagraph (A).

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

302 (A) Pay to the producing agent of record, for the first  
303 year, an amount that is the greater of the insurer's usual and  
304 customary commission for the type of policy written or a fee  
305 equal to the usual and customary commission of the corporation;  
306 or

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

311  
312 If the producing agent is unwilling or unable to accept  
313 appointment, the new insurer shall pay the agent in accordance  
314 with sub-sub-sub-subparagraph (A).

315 b. With respect to commercial lines residential risks, for  
316 a new application to the corporation for coverage, if the risk  
317 is offered coverage under a policy including wind coverage from



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318 an authorized insurer at its approved rate, the risk is not  
319 eligible for a policy issued by the corporation unless the  
320 premium for coverage from the authorized insurer is more than 15  
321 percent greater than the premium for comparable coverage from  
322 the corporation. Whenever an offer of coverage for a commercial  
323 lines residential risk is received for a policyholder of the  
324 corporation at renewal from an authorized insurer, if the offer  
325 is equal to or less than the corporation's renewal premium for  
326 comparable coverage, the risk is not eligible for coverage with  
327 the corporation. If the risk is not able to obtain any such  
328 offer, the risk is eligible for a policy including wind coverage  
329 issued by the corporation. However, a policyholder removed from  
330 the corporation through an assumption agreement remains eligible  
331 for coverage from the corporation until the end of the  
332 assumption period.

333 (I) If the risk accepts an offer of coverage through the  
334 market assistance plan or through a mechanism established by the  
335 corporation other than a plan established by s. 627.3518, before  
336 a policy is issued to the risk by the corporation or during the  
337 first 30 days of coverage by the corporation, and the producing  
338 agent who submitted the application to the plan or the  
339 corporation is not currently appointed by the insurer, the  
340 insurer shall:

341 (A) Pay to the producing agent of record of the policy, for  
342 the first year, an amount that is the greater of the insurer's  
343 usual and customary commission for the type of policy written or  
344 a fee equal to the usual and customary commission of the  
345 corporation; or

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



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347 policy to continue servicing the policy for at least 1 year and  
348 offer to pay the agent the greater of the insurer's or the  
349 corporation's usual and customary commission for the type of  
350 policy written.

351  
352 If the producing agent is unwilling or unable to accept  
353 appointment, the new insurer shall pay the agent in accordance  
354 with sub-sub-sub-subparagraph (A).

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

359 (A) Pay to the producing agent of record, for the first  
360 year, an amount that is the greater of the insurer's usual and  
361 customary commission for the type of policy written or a fee  
362 equal to the usual and customary commission of the corporation;  
363 or

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

368  
369 If the producing agent is unwilling or unable to accept  
370 appointment, the new insurer shall pay the agent in accordance  
371 with sub-sub-sub-subparagraph (A).

372 c. For purposes of determining comparable coverage under  
373 sub-subparagraphs a. and b., the comparison must be based on  
374 those forms and coverages that are reasonably comparable. The  
375 corporation may rely on a determination of comparable coverage



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376 and premium made by the producing agent who submits the  
377 application to the corporation, made in the agent's capacity as  
378 the corporation's agent. A comparison may be made solely of the  
379 premium with respect to the main building or structure only on  
380 the following basis: the same coverage A or other building  
381 limits; the same percentage hurricane deductible that applies on  
382 an annual basis or that applies to each hurricane for commercial  
383 residential property; the same percentage of ordinance and law  
384 coverage, if the same limit is offered by both the corporation  
385 and the authorized insurer; the same mitigation credits, to the  
386 extent the same types of credits are offered both by the  
387 corporation and the authorized insurer; the same method for loss  
388 payment, such as replacement cost or actual cash value, if the  
389 same method is offered both by the corporation and the  
390 authorized insurer in accordance with underwriting rules; and  
391 any other form or coverage that is reasonably comparable as  
392 determined by the board. If an application is submitted to the  
393 corporation for wind-only coverage in the coastal account, the  
394 premium for the corporation's wind-only policy plus the premium  
395 for the ex-wind policy that is offered by an authorized insurer  
396 to the applicant must be compared to the premium for multiperil  
397 coverage offered by an authorized insurer, subject to the  
398 standards for comparison specified in this subparagraph. If the  
399 corporation or the applicant requests from the authorized  
400 insurer a breakdown of the premium of the offer by types of  
401 coverage so that a comparison may be made by the corporation or  
402 its agent and the authorized insurer refuses or is unable to  
403 provide such information, the corporation may treat the offer as  
404 not being an offer of coverage from an authorized insurer at the



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405 insurer's approved rate.

406         6. Must include rules for classifications of risks and  
407 rates.

408         7. Must provide that if premium and investment income for  
409 an account attributable to a particular calendar year are in  
410 excess of projected losses and expenses for the account  
411 attributable to that year, such excess shall be held in surplus  
412 in the account. Such surplus must be available to defray  
413 deficits in that account as to future years and used for that  
414 purpose before assessing assessable insurers and assessable  
415 insureds as to any calendar year.

416         8. Must provide objective criteria and procedures to be  
417 uniformly applied to all applicants in determining whether an  
418 individual risk is so hazardous as to be uninsurable. In making  
419 this determination and in establishing the criteria and  
420 procedures, the following must be considered:

421             a. Whether the likelihood of a loss for the individual risk  
422 is substantially higher than for other risks of the same class;  
423 and

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

426

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

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



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434           10. The policies issued by the corporation must provide  
435 that if the corporation or the market assistance plan obtains an  
436 offer from an authorized insurer to cover the risk at its  
437 approved rates, the risk is no longer eligible for renewal  
438 through the corporation, except as otherwise provided in this  
439 subsection.

440           11. Corporation policies and applications must include a  
441 notice that the corporation policy could, under this section, be  
442 replaced with a policy issued by an authorized insurer which  
443 does not provide coverage identical to the coverage provided by  
444 the corporation. The notice must also specify that acceptance of  
445 corporation coverage creates a conclusive presumption that the  
446 applicant or policyholder is aware of this potential.

447           12. May establish, subject to approval by the office,  
448 different eligibility requirements and operational procedures  
449 for any line or type of coverage for any specified county or  
450 area if the board determines that such changes are justified due  
451 to the voluntary market being sufficiently stable and  
452 competitive in such area or for such line or type of coverage  
453 and that consumers who, in good faith, are unable to obtain  
454 insurance through the voluntary market through ordinary methods  
455 continue to have access to coverage from the corporation. If  
456 coverage is sought in connection with a real property transfer,  
457 the requirements and procedures may not provide an effective  
458 date of coverage later than the date of the closing of the  
459 transfer as established by the transferor, the transferee, and,  
460 if applicable, the lender.

461           13. Must provide that, with respect to the coastal account,  
462 any assessable insurer with a surplus as to policyholders of \$25





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

485       14. Must provide that the corporation appoint as its  
486 licensed agents only those agents who throughout such  
487 appointments also hold an appointment as defined in s.  
488 626.015(3) by ~~with~~ an insurer who ~~at the time of the agent's~~  
489 ~~initial appointment by the corporation~~ is authorized to write  
490 and is actually writing or renewing personal lines residential  
491 property coverage, commercial residential property coverage, or



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492 commercial nonresidential property coverage within the state.

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

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

500 17. Must provide coverage for manufactured or mobile home  
501 dwellings. Such coverage must also include the following  
502 attached structures:

503 a. Screened enclosures that are aluminum framed or screened  
504 enclosures that are not covered by the same or substantially the  
505 same materials as those of the primary dwelling;

506 b. Carports that are aluminum or carports that are not  
507 covered by the same or substantially the same materials as those  
508 of the primary dwelling; and

509 c. Patios that have a roof covering that is constructed of  
510 materials that are not the same or substantially the same  
511 materials as those of the primary dwelling.

512  
513 The corporation shall make available a policy for mobile homes  
514 or manufactured homes for a minimum insured value of at least  
515 \$3,000.

516 18. May provide such limits of coverage as the board  
517 determines, consistent with the requirements of this subsection.

518 19. May require commercial property to meet specified  
519 hurricane mitigation construction features as a condition of  
520 eligibility for coverage.



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521           20. Must provide that new or renewal policies issued by the  
522 corporation on or after January 1, 2012, which cover sinkhole  
523 loss do not include coverage for any loss to appurtenant  
524 structures, driveways, sidewalks, decks, or patios that are  
525 directly or indirectly caused by sinkhole activity. The  
526 corporation shall exclude such coverage using a notice of  
527 coverage change, which may be included with the policy renewal,  
528 and not by issuance of a notice of nonrenewal of the excluded  
529 coverage upon renewal of the current policy.

530           21. As of January 1, 2012, must require that the agent  
531 obtain from an applicant for coverage from the corporation an  
532 acknowledgment signed by the applicant, which includes, at a  
533 minimum, the following statement:

534                   ACKNOWLEDGMENT OF POTENTIAL SURCHARGE

535                           AND ASSESSMENT LIABILITY:

536           1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE  
537 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A  
538 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,  
539 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND  
540 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE  
541 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT  
542 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA  
543 LEGISLATURE.

544           2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER  
545 SURCHARGE, WHICH COULD BE AS HIGH AS 45 PERCENT OF MY PREMIUM,  
546 BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO  
547 BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN  
548 PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE  
549 WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES



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550 ARE REGULATED AND APPROVED BY THE STATE.

551 3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY  
552 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER  
553 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE  
554 FLORIDA LEGISLATURE.

555 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE  
556 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE  
557 STATE OF FLORIDA.

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

562 b. The signed acknowledgment form creates a conclusive  
563 presumption that the policyholder understood and accepted his or  
564 her potential surcharge and assessment liability as a  
565 policyholder of the corporation.

566 (x)1. The following records of the corporation are  
567 confidential and exempt from the provisions of s. 119.07(1) and  
568 s. 24(a), Art. I of the State Constitution:

569 a. Underwriting files, except that a policyholder or an  
570 applicant shall have access to his or her own underwriting  
571 files. Confidential and exempt underwriting file records may  
572 also be released to other governmental agencies upon written  
573 request and demonstration of need; such records held by the  
574 receiving agency remain confidential and exempt as provided  
575 herein.

576 b. Claims files, until termination of all litigation and  
577 settlement of all claims arising out of the same incident,  
578 although portions of the claims files may remain exempt, as



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579 otherwise provided by law. Confidential and exempt claims file  
580 records may be released to other governmental agencies upon  
581 written request and demonstration of need; such records held by  
582 the receiving agency remain confidential and exempt as provided  
583 herein.

584 c. Records obtained or generated by an internal auditor  
585 pursuant to a routine audit, until the audit is completed, or if  
586 the audit is conducted as part of an investigation, until the  
587 investigation is closed or ceases to be active. An investigation  
588 is considered "active" while the investigation is being  
589 conducted with a reasonable, good faith belief that it could  
590 lead to the filing of administrative, civil, or criminal  
591 proceedings.

592 d. Matters reasonably encompassed in privileged attorney-  
593 client communications.

594 e. Proprietary information licensed to the corporation  
595 under contract and the contract provides for the confidentiality  
596 of such proprietary information.

597 f. All information relating to the medical condition or  
598 medical status of a corporation employee which is not relevant  
599 to the employee's capacity to perform his or her duties, except  
600 as otherwise provided in this paragraph. Information that is  
601 exempt shall include, but is not limited to, information  
602 relating to workers' compensation, insurance benefits, and  
603 retirement or disability benefits.

604 g. Upon an employee's entrance into the employee assistance  
605 program, a program to assist any employee who has a behavioral  
606 or medical disorder, substance abuse problem, or emotional  
607 difficulty which affects the employee's job performance, all



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608 records relative to that participation shall be confidential and  
609 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I  
610 of the State Constitution, except as otherwise provided in s.  
611 112.0455(11).

612 h. Information relating to negotiations for financing,  
613 reinsurance, depopulation, or contractual services, until the  
614 conclusion of the negotiations.

615 i. Minutes of closed meetings regarding underwriting files,  
616 and minutes of closed meetings regarding an open claims file  
617 until termination of all litigation and settlement of all claims  
618 with regard to that claim, except that information otherwise  
619 confidential or exempt by law shall be redacted.

620 2. If an authorized insurer is considering underwriting a  
621 risk insured by the corporation, relevant underwriting files and  
622 confidential claims files may be released to the insurer  
623 provided the insurer agrees in writing, notarized and under  
624 oath, to maintain the confidentiality of such files. If a file  
625 is transferred to an insurer, that file is no longer a public  
626 record because it is not held by an agency subject to the  
627 provisions of the public records law. Underwriting files and  
628 confidential claims files may also be released to staff and the  
629 board of governors of the market assistance plan established  
630 pursuant to s. 627.3515, who must retain the confidentiality of  
631 such files, except such files may be released to authorized  
632 insurers that are considering assuming the risks to which the  
633 files apply, provided the insurer agrees in writing, notarized  
634 and under oath, to maintain the confidentiality of such files.  
635 Finally, the corporation or the board or staff of the market  
636 assistance plan may make the following information obtained from



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637 underwriting files and confidential claims files available to  
638 licensed general lines insurance agents: name, address, and  
639 telephone number of the residential property owner or insured;  
640 location of the risk; rating information; loss history; and  
641 policy type. The receiving licensed general lines insurance  
642 agent must retain the confidentiality of the information  
643 received and may use the information only for the purposes of  
644 developing a take-out plan to be submitted to the office for  
645 approval or otherwise analyzing the underwriting of a risk or  
646 risks insured by the corporation on behalf of the private  
647 insurance market. The licensed general lines agent and an  
648 insurer receiving information under this subparagraph may not  
649 use the information for the direct solicitation of  
650 policyholders. An entity that has obtained a permit to become an  
651 authorized insurer, a reinsurer, a reinsurance broker, or a  
652 modeling company may receive the information available to a  
653 licensed general lines agent for the sole purpose of analyzing  
654 risks for underwriting in the private insurance market and must  
655 retain the confidentiality of the information received. Such  
656 entities may not use the information for the direct solicitation  
657 of policyholders.

658         3. A policyholder who has filed suit against the  
659 corporation has the right to discover the contents of his or her  
660 own claims file to the same extent that discovery of such  
661 contents would be available from a private insurer in litigation  
662 as provided by the Florida Rules of Civil Procedure, the Florida  
663 Evidence Code, and other applicable law. Pursuant to subpoena, a  
664 third party has the right to discover the contents of an  
665 insured's or applicant's underwriting or claims file to the same



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666 extent that discovery of such contents would be available from a  
667 private insurer by subpoena as provided by the Florida Rules of  
668 Civil Procedure, the Florida Evidence Code, and other applicable  
669 law, and subject to any confidentiality protections requested by  
670 the corporation and agreed to by the seeking party or ordered by  
671 the court. The corporation may release confidential underwriting  
672 and claims file contents and information as it deems necessary  
673 and appropriate to underwrite or service insurance policies and  
674 claims, subject to any confidentiality protections deemed  
675 necessary and appropriate by the corporation.

676 4. Portions of meetings of the corporation are exempt from  
677 the provisions of s. 286.011 and s. 24(b), Art. I of the State  
678 Constitution wherein confidential underwriting files or  
679 confidential open claims files are discussed. All portions of  
680 corporation meetings which are closed to the public shall be  
681 recorded by a court reporter. The court reporter shall record  
682 the times of commencement and termination of the meeting, all  
683 discussion and proceedings, the names of all persons present at  
684 any time, and the names of all persons speaking. No portion of  
685 any closed meeting shall be off the record. Subject to the  
686 provisions hereof and s. 119.07(1)(d)-(f), the court reporter's  
687 notes of any closed meeting shall be retained by the corporation  
688 for a minimum of 5 years. A copy of the transcript, less any  
689 exempt matters, of any closed meeting wherein claims are  
690 discussed shall become public as to individual claims after  
691 settlement of the claim.

692 (ii) The corporation shall revise the programs adopted  
693 pursuant to sub-subparagraph (6)(q)3.a. to maximize policyholder  
694 options and encourage increased participation by insurers and





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695 agents.

696 1. After January 1, 2016, such revisions must include a  
697 process by which policyholders are informed if one or more  
698 insurers demonstrate an interest in taking out that policy from  
699 the corporation. This demonstration of interest must include the  
700 amount of the estimated premium, a description of the coverage,  
701 including an explanation of differences, and a comparison of the  
702 estimated premium and coverage offered by the insurer to the  
703 estimated premium and coverage provided by the corporation. The  
704 corporation shall develop a uniform format for the estimated  
705 premium and coverage information required by this subparagraph.  
706 After January 1, 2016, a policy may not be taken out from the  
707 corporation unless the provisions of this subparagraph are met.

708 2. A policyholder may elect not to be solicited for take-  
709 out offers more than once in a 6-month period.

710 3. A policyholder whose policy was taken out by an insurer  
711 in the previous 36 months is considered a renewal policyholder  
712 under s. 627.3518 if the corporation determines that the insurer  
713 continues to insure the policyholder and that the initial  
714 premium of the insurer exceeded its estimated premium by more  
715 than 10 percent or the insurer increased the rate on the policy  
716 in excess of the increase allowed for the corporation under  
717 subparagraph (6) (n) 6.

718 Section 2. This act shall take effect July 1, 2015.