

By Senator Flores

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1 A bill to be entitled
 2 An act relating to the depopulation of Citizens
 3 Property Insurance Corporation; amending s. 627.3511,
 4 F.S.; requiring the corporation to provide specified
 5 notice to a policyholder and to receive specified
 6 written consent from such policyholder before the
 7 removal of the policyholder's residential property
 8 insurance policy from the corporation by an insurer;
 9 prohibiting an insurer that removes a policy from the
 10 corporation from annually increasing the rate for the
 11 renewal of a replacement policy by more than a
 12 specified amount for a specified number of terms;
 13 conforming cross-references; amending ss. 627.351 and
 14 627.3517, F.S.; conforming cross-references; providing
 15 an effective date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

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 19 Section 1. Present subsections (2) through (7) of section
 20 627.3511, Florida Statutes, are redesignated as subsections (3)
 21 through (8), respectively, a new subsection (2) is added to that
 22 section, and present subsection (5) and present paragraph (b) of
 23 subsection (6) of that section are amended, to read:

24 627.3511 Depopulation of Citizens Property Insurance
 25 Corporation.—

26 (2) CONSENT OF POLICYHOLDERS.—Before an insurer may remove
 27 a residential property insurance policy from the corporation
 28 under this section by issuance of a new policy upon expiration
 29 or cancellation of the corporation policy or by assumption of

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30 the corporation's obligations with respect to an in-force
31 policy, the corporation must:

32 (a) Provide written notice to the policyholder that
33 explains each difference in coverage and rate which exists
34 between the corporation policy and the policy offered by the
35 insurer seeking removal.

36 (b) Obtain written consent from the policyholder which
37 indicates that the policyholder, after receipt of the notice
38 required under paragraph (a), approves the removal.

39 (6)-(5) APPLICABILITY.-

40 (a) 1. The take-out bonus provided by subsection (3) ~~(2)~~ and
41 the exemption from assessment provided by paragraph (4) (a)
42 ~~(3) (a)~~ apply only if the corporation policy is replaced by a
43 standard policy including wind coverage or, if consistent with
44 the insurer's underwriting rules filed with the office, a basic
45 policy including wind coverage; however, for risks located in
46 areas where coverage through the coastal account of the
47 corporation is available, the replacement policy need not
48 provide wind coverage. The insurer must renew the replacement
49 policy at approved rates, subject to subparagraph 2., on
50 substantially similar terms for four additional 1-year terms,
51 unless canceled or not renewed by the policyholder. If an
52 insurer assumes the corporation's obligations for a policy, it
53 must issue a replacement policy for a 1-year term upon
54 expiration of the corporation policy and must renew the
55 replacement policy at approved rates, subject to subparagraph
56 2., on substantially similar terms for four additional 1-year
57 terms, unless canceled or not renewed by the policyholder. For
58 each replacement policy canceled or nonrenewed by the insurer

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59 for any reason during the 5-year coverage period, the insurer
60 must remove from the corporation one additional policy covering
61 a risk similar to the risk covered by the canceled or nonrenewed
62 policy. In addition, the corporation must place the bonus moneys
63 in escrow for 5 years; such moneys may be released from escrow
64 only to pay claims. If the policy is canceled or nonrenewed
65 before the end of the 5-year period, the amount of the take-out
66 bonus must be prorated for the time period the policy was
67 insured. A take-out bonus provided by subsection (3) ~~(2)~~ or
68 subsection (7) ~~(6)~~ is not premium income for purposes of taxes
69 and assessments under the Florida Insurance Code and remains the
70 property of the corporation, subject to the prior security
71 interest of the insurer under the escrow agreement until it is
72 released from escrow; after it is released from escrow it is
73 considered an asset of the insurer and credited to the insurer's
74 capital and surplus.

75 2. With respect to the renewal of any single replacement
76 policy, an insurer may not implement an annual increase in the
77 rate which exceeds 10 percent, excluding coverage changes and
78 surcharges, for the first three 1-year terms of renewal.

79 (b) It is the intent of the Legislature that an insurer
80 eligible for the exemption under paragraph (4) (a) ~~(3) (a)~~
81 establish a preference in appointment of agents for those agents
82 who lose a substantial amount of business as a result of risks
83 being removed from the corporation.

84 (7) ~~(6)~~ COMMERCIAL RESIDENTIAL TAKE-OUT PLANS.-

85 (b) In order for a plan to qualify for approval:

86 1. At least 40 percent of the policies removed from the
87 corporation under the plan must be located in Miami-Dade,

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88 Broward, and Palm Beach Counties, or at least 30 percent of the
89 policies removed from the corporation under the plan must be
90 located in such counties and an additional 50 percent of the
91 policies removed from the corporation must be located in other
92 coastal counties.

93 2.a. The insurer must renew the replacement policy at
94 approved rates, subject to sub-subparagraph b., on substantially
95 similar terms for two additional 1-year terms, unless canceled
96 or nonrenewed by the insurer for a lawful reason other than
97 reduction of hurricane exposure. If an insurer assumes the
98 corporation's obligations for a policy, it must issue a
99 replacement policy for a 1-year term upon expiration of the
100 corporation policy and must renew the replacement policy at
101 approved rates, subject to sub-subparagraph b., on substantially
102 similar terms for two additional 1-year terms, unless canceled
103 by the insurer for a lawful reason other than reduction of
104 hurricane exposure. For each replacement policy canceled or
105 nonrenewed by the insurer for any reason during the 3-year
106 coverage period required by this subparagraph, the insurer must
107 remove from the corporation one additional policy covering a
108 risk similar to the risk covered by the canceled or nonrenewed
109 policy.

110 b. With respect to the renewal of any single replacement
111 policy, an insurer may not implement an annual increase in the
112 rate which exceeds 10 percent, excluding coverage changes and
113 surcharges.

114 Section 2. Paragraph (q) of subsection (6) of section
115 627.351, Florida Statutes, is amended to read:

116 627.351 Insurance risk apportionment plans.—

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117 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

118 (q)1. The corporation shall certify to the office its needs
119 for annual assessments as to a particular calendar year, and for
120 any interim assessments that it deems to be necessary to sustain
121 operations as to a particular year pending the receipt of annual
122 assessments. Upon verification, the office shall approve such
123 certification, and the corporation shall levy such annual or
124 interim assessments. Such assessments shall be prorated as
125 provided in paragraph (b). The corporation shall take all
126 reasonable and prudent steps necessary to collect the amount of
127 assessments due from each assessable insurer, including, if
128 prudent, filing suit to collect the assessments, and the office
129 may provide such assistance to the corporation it deems
130 appropriate. If the corporation is unable to collect an
131 assessment from any assessable insurer, the uncollected
132 assessments shall be levied as an additional assessment against
133 the assessable insurers and any assessable insurer required to
134 pay an additional assessment as a result of such failure to pay
135 shall have a cause of action against such nonpaying assessable
136 insurer. Assessments shall be included as an appropriate factor
137 in the making of rates. The failure of a surplus lines agent to
138 collect and remit any regular or emergency assessment levied by
139 the corporation is considered to be a violation of s. 626.936
140 and subjects the surplus lines agent to the penalties provided
141 in that section.

142 2. The governing body of any unit of local government, any
143 residents of which are insured by the corporation, may issue
144 bonds as defined in s. 125.013 or s. 166.101 from time to time
145 to fund an assistance program, in conjunction with the

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146 corporation, for the purpose of defraying deficits of the
147 corporation. In order to avoid needless and indiscriminate
148 proliferation, duplication, and fragmentation of such assistance
149 programs, any unit of local government, any residents of which
150 are insured by the corporation, may provide for the payment of
151 losses, regardless of whether or not the losses occurred within
152 or outside of the territorial jurisdiction of the local
153 government. Revenue bonds under this subparagraph may not be
154 issued until validated pursuant to chapter 75, unless a state of
155 emergency is declared by executive order or proclamation of the
156 Governor pursuant to s. 252.36 making such findings as are
157 necessary to determine that it is in the best interests of, and
158 necessary for, the protection of the public health, safety, and
159 general welfare of residents of this state and declaring it an
160 essential public purpose to permit certain municipalities or
161 counties to issue such bonds as will permit relief to claimants
162 and policyholders of the corporation. Any such unit of local
163 government may enter into such contracts with the corporation
164 and with any other entity created pursuant to this subsection as
165 are necessary to carry out this paragraph. Any bonds issued
166 under this subparagraph shall be payable from and secured by
167 moneys received by the corporation from emergency assessments
168 under sub-subparagraph (b)3.d., and assigned and pledged to or
169 on behalf of the unit of local government for the benefit of the
170 holders of such bonds. The funds, credit, property, and taxing
171 power of the state or of the unit of local government shall not
172 be pledged for the payment of such bonds.

173 3.a. The corporation shall adopt one or more programs
174 subject to approval by the office for the reduction of both new

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175 and renewal writings in the corporation. Beginning January 1,
176 2008, any program the corporation adopts for the payment of
177 bonuses to an insurer for each risk the insurer removes from the
178 corporation shall comply with s. 627.3511(3) ~~s. 627.3511(2)~~ and
179 may not exceed the amount referenced in s. 627.3511(3) ~~s.~~
180 ~~627.3511(2)~~ for each risk removed. The corporation may consider
181 any prudent and not unfairly discriminatory approach to reducing
182 corporation writings, and may adopt a credit against assessment
183 liability or other liability that provides an incentive for
184 insurers to take risks out of the corporation and to keep risks
185 out of the corporation by maintaining or increasing voluntary
186 writings in counties or areas in which corporation risks are
187 highly concentrated and a program to provide a formula under
188 which an insurer voluntarily taking risks out of the corporation
189 by maintaining or increasing voluntary writings will be relieved
190 wholly or partially from assessments under sub-subparagraph
191 (b)3.a. However, any "take-out bonus" or payment to an insurer
192 must be conditioned on the property being insured for at least 5
193 years by the insurer at rates authorized under s. 627.3511,
194 unless canceled or nonrenewed by the policyholder. If the policy
195 is canceled or nonrenewed by the policyholder before the end of
196 the 5-year period, the amount of the take-out bonus must be
197 prorated for the time period the policy was insured. When the
198 corporation enters into a contractual agreement for a take-out
199 plan, the producing agent of record of the corporation policy is
200 entitled to retain any unearned commission on such policy, and
201 the insurer shall either:

202 (I) Pay to the producing agent of record of the policy, for
203 the first year, an amount which is the greater of the insurer's

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204 usual and customary commission for the type of policy written or
205 a policy fee equal to the usual and customary commission of the
206 corporation; or

207 (II) Offer to allow the producing agent of record of the
208 policy to continue servicing the policy for a period of not less
209 than 1 year and offer to pay the agent the insurer's usual and
210 customary commission for the type of policy written. If the
211 producing agent is unwilling or unable to accept appointment by
212 the new insurer, the new insurer shall pay the agent in
213 accordance with sub-sub-subparagraph (I).

214 b. Any credit or exemption from regular assessments adopted
215 under this subparagraph shall last no longer than the 3 years
216 following the cancellation or expiration of the policy by the
217 corporation. With the approval of the office, the board may
218 extend such credits for an additional year if the insurer
219 guarantees an additional year of renewability for all policies
220 removed from the corporation, or for 2 additional years if the
221 insurer guarantees 2 additional years of renewability for all
222 policies so removed.

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

226 4. The plan shall provide for the deferment, in whole or in
227 part, of the assessment of an assessable insurer, other than an
228 emergency assessment collected from policyholders pursuant to
229 sub-subparagraph (b)3.d., if the office finds that payment of
230 the assessment would endanger or impair the solvency of the
231 insurer. In the event an assessment against an assessable
232 insurer is deferred in whole or in part, the amount by which

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233 such assessment is deferred may be assessed against the other
234 assessable insurers in a manner consistent with the basis for
235 assessments set forth in paragraph (b).

236 5. Effective July 1, 2007, in order to evaluate the costs
237 and benefits of approved take-out plans, if the corporation pays
238 a bonus or other payment to an insurer for an approved take-out
239 plan, it shall maintain a record of the address or such other
240 identifying information on the property or risk removed in order
241 to track if and when the property or risk is later insured by
242 the corporation.

243 6. Any policy taken out, assumed, or removed from the
244 corporation is, as of the effective date of the take-out,
245 assumption, or removal, direct insurance issued by the insurer
246 and not by the corporation, even if the corporation continues to
247 service the policies. This subparagraph applies to policies of
248 the corporation and not policies taken out, assumed, or removed
249 from any other entity.

250 7. For a policy taken out, assumed, or removed from the
251 corporation, the insurer may, for a period of no more than 3
252 years, continue to use any of the corporation's policy forms or
253 endorsements that apply to the policy taken out, removed, or
254 assumed without obtaining approval from the office for use of
255 such policy form or endorsement.

256 Section 3. Section 627.3517, Florida Statutes, is amended
257 to read:

258 627.3517 Consumer choice.—No provision of s. 627.351, s.
259 627.3511, or s. 627.3515 shall be construed to impair the right
260 of any insurance risk apportionment plan policyholder, upon
261 receipt of any keepout or take-out offer, to retain his or her

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262 current agent, so long as that agent is duly licensed and
263 appointed by the insurance risk apportionment plan or otherwise
264 authorized to place business with the insurance risk
265 apportionment plan. This right shall not be canceled, suspended,
266 impeded, abridged, or otherwise compromised by any rule, plan of
267 operation, or depopulation plan, whether through keepout, take-
268 out, midterm assumption, or any other means, of any insurance
269 risk apportionment plan or depopulation plan, including, but not
270 limited to, those described in s. 627.351, s. 627.3511, or s.
271 627.3515. The commission shall adopt any rules necessary to
272 cause any insurance risk apportionment plan or market assistance
273 plan under such sections to demonstrate that the operations of
274 the plan do not interfere with, promote, or allow interference
275 with the rights created under this section. If the
276 policyholder's current agent is unable or unwilling to be
277 appointed with the insurer making the take-out or keepout offer,
278 the policyholder shall not be disqualified from participation in
279 the appropriate insurance risk apportionment plan because of an
280 offer of coverage in the voluntary market. An offer of full
281 property insurance coverage by the insurer currently insuring
282 either the ex-wind or wind-only coverage on the policy to which
283 the offer applies shall not be considered a take-out or keepout
284 offer. Any rule, plan of operation, or plan of depopulation,
285 through keepout, take-out, midterm assumption, or any other
286 means, of any property insurance risk apportionment plan under
287 s. 627.351(2) or (6) is subject to ss. 627.351(2)(b) and (6)(c)
288 and 627.3511(5) ~~627.3511(4)~~.

289 Section 4. This act shall take effect July 1, 2015.