

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 and receive
 5 from a residential property insurance policyholder
 6 specified information before a policy may be removed
 7 from the corporation; prohibiting an insurer that
 8 removes a policy from the corporation from annually
 9 increasing the rate for the renewal of a replacement
 10 policy by more than a specified amount for a specified
 11 number of terms; conforming cross-references; amending
 12 ss. 627.351 and 627.3517, F.S.; conforming cross-
 13 references; providing an effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

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 17 Section 1. Subsections (2) through (7) of section
 18 627.3511, Florida Statutes, are renumbered as subsections (3)
 19 through (8), respectively, present subsection (5) and present
 20 paragraph (b) of subsection (6) are amended, and a new
 21 subsection (2) is added to that section, to read:

22 627.3511 Depopulation of Citizens Property Insurance
 23 Corporation.—

24 (2) CONSENT OF POLICYHOLDERS.—Before an insurer may remove
 25 a residential property insurance policy from the corporation
 26 pursuant to subsection (3), the corporation must:

27 (a) Provide written notice to the policyholder explaining
 28 each difference that exists between the coverage and rate
 29 provided by the corporation and the coverage and rate being
 30 offered by the insurer.

31 (b) Obtain written consent from the policyholder that
 32 indicates that the policyholder, after receipt of the notice
 33 required under paragraph (a), approves the removal.

34 (6)~~(5)~~ APPLICABILITY.—

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

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

70 2. With respect to the renewal of any single replacement
71 policy, an insurer may not increase a policyholder's rate by
72 more than 10 percent annually, excluding coverage changes and
73 surcharges, for the first three 1-year terms of renewal.

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

79 | (7)~~(6)~~ COMMERCIAL RESIDENTIAL TAKE-OUT PLANS.—

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

81 | 1. At least 40 percent of the policies removed from the
82 | corporation under the plan must be located in Miami-Dade,
83 | Broward, and Palm Beach Counties, or at least 30 percent of the
84 | policies removed from the corporation under the plan must be
85 | located in such counties and an additional 50 percent of the
86 | policies removed from the corporation must be located in other
87 | coastal counties.

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

105 b. With respect to the renewal of any single replacement
106 policy, an insurer may not increase a policyholder's rate by
107 more than 10 percent annually, excluding coverage changes and
108 surcharges.

109 Section 2. Paragraph (q) of subsection (6) of section
110 627.351, Florida Statutes, is amended to read:

111 627.351 Insurance risk apportionment plans.—

112 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

113 (q)1. The corporation shall certify to the office its
114 needs for annual assessments as to a particular calendar year,
115 and for any interim assessments that it deems to be necessary to
116 sustain operations as to a particular year pending the receipt
117 of annual assessments. Upon verification, the office shall
118 approve such certification, and the corporation shall levy such
119 annual or interim assessments. Such assessments shall be
120 prorated as provided in paragraph (b). The corporation shall
121 take all reasonable and prudent steps necessary to collect the
122 amount of assessments due from each assessable insurer,
123 including, if prudent, filing suit to collect the assessments,
124 and the office may provide such assistance to the corporation it
125 deems appropriate. If the corporation is unable to collect an
126 assessment from any assessable insurer, the uncollected
127 assessments shall be levied as an additional assessment against
128 the assessable insurers and any assessable insurer required to
129 pay an additional assessment as a result of such failure to pay
130 shall have a cause of action against such nonpaying assessable

131 insurer. Assessments shall be included as an appropriate factor
132 in the making of rates. The failure of a surplus lines agent to
133 collect and remit any regular or emergency assessment levied by
134 the corporation is considered to be a violation of s. 626.936
135 and subjects the surplus lines agent to the penalties provided
136 in that section.

137 2. The governing body of any unit of local government, any
138 residents of which are insured by the corporation, may issue
139 bonds as defined in s. 125.013 or s. 166.101 from time to time
140 to fund an assistance program, in conjunction with the
141 corporation, for the purpose of defraying deficits of the
142 corporation. In order to avoid needless and indiscriminate
143 proliferation, duplication, and fragmentation of such assistance
144 programs, any unit of local government, any residents of which
145 are insured by the corporation, may provide for the payment of
146 losses, regardless of whether or not the losses occurred within
147 or outside of the territorial jurisdiction of the local
148 government. Revenue bonds under this subparagraph may not be
149 issued until validated pursuant to chapter 75, unless a state of
150 emergency is declared by executive order or proclamation of the
151 Governor pursuant to s. 252.36 making such findings as are
152 necessary to determine that it is in the best interests of, and
153 necessary for, the protection of the public health, safety, and
154 general welfare of residents of this state and declaring it an
155 essential public purpose to permit certain municipalities or
156 counties to issue such bonds as will permit relief to claimants

157 and policyholders of the corporation. Any such unit of local
 158 government may enter into such contracts with the corporation
 159 and with any other entity created pursuant to this subsection as
 160 are necessary to carry out this paragraph. Any bonds issued
 161 under this subparagraph shall be payable from and secured by
 162 moneys received by the corporation from emergency assessments
 163 under sub-subparagraph (b)3.d., and assigned and pledged to or
 164 on behalf of the unit of local government for the benefit of the
 165 holders of such bonds. The funds, credit, property, and taxing
 166 power of the state or of the unit of local government shall not
 167 be pledged for the payment of such bonds.

168 3.a. The corporation shall adopt one or more programs
 169 subject to approval by the office for the reduction of both new
 170 and renewal writings in the corporation. Beginning January 1,
 171 2008, any program the corporation adopts for the payment of
 172 bonuses to an insurer for each risk the insurer removes from the
 173 corporation shall comply with s. 627.3511(3) ~~s. 627.3511(2)~~ and
 174 may not exceed the amount referenced in s. 627.3511(3) ~~s.~~
 175 ~~627.3511(2)~~ for each risk removed. The corporation may consider
 176 any prudent and not unfairly discriminatory approach to reducing
 177 corporation writings, and may adopt a credit against assessment
 178 liability or other liability that provides an incentive for
 179 insurers to take risks out of the corporation and to keep risks
 180 out of the corporation by maintaining or increasing voluntary
 181 writings in counties or areas in which corporation risks are
 182 highly concentrated and a program to provide a formula under

183 | which an insurer voluntarily taking risks out of the corporation
184 | by maintaining or increasing voluntary writings will be relieved
185 | wholly or partially from assessments under sub-subparagraph
186 | (b)3.a. However, any "take-out bonus" or payment to an insurer
187 | must be conditioned on the property being insured for at least 5
188 | years by the insurer at rates authorized under s. 627.3511,
189 | unless canceled or nonrenewed by the policyholder. If the policy
190 | is canceled or nonrenewed by the policyholder before the end of
191 | the 5-year period, the amount of the take-out bonus must be
192 | prorated for the time period the policy was insured. When the
193 | corporation enters into a contractual agreement for a take-out
194 | plan, the producing agent of record of the corporation policy is
195 | entitled to retain any unearned commission on such policy, and
196 | the insurer shall either:

197 | (I) Pay to the producing agent of record of the policy,
198 | for the first year, an amount which is the greater of the
199 | insurer's usual and customary commission for the type of policy
200 | written or a policy fee equal to the usual and customary
201 | commission of the corporation; or

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

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

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

221 4. The plan shall provide for the deferment, in whole or
222 in part, of the assessment of an assessable insurer, other than
223 an emergency assessment collected from policyholders pursuant to
224 sub-subparagraph (b)3.d., if the office finds that payment of
225 the assessment would endanger or impair the solvency of the
226 insurer. In the event an assessment against an assessable
227 insurer is deferred in whole or in part, the amount by which
228 such assessment is deferred may be assessed against the other
229 assessable insurers in a manner consistent with the basis for
230 assessments set forth in paragraph (b).

231 5. Effective July 1, 2007, in order to evaluate the costs
232 and benefits of approved take-out plans, if the corporation pays
233 a bonus or other payment to an insurer for an approved take-out
234 plan, it shall maintain a record of the address or such other

235 identifying information on the property or risk removed in order
236 to track if and when the property or risk is later insured by
237 the corporation.

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

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

251 Section 3. Section 627.3517, Florida Statutes, is amended
252 to read:

253 627.3517 Consumer choice.—No provision of s. 627.351, s.
254 627.3511, or s. 627.3515 shall be construed to impair the right
255 of any insurance risk apportionment plan policyholder, upon
256 receipt of any keepout or take-out offer, to retain his or her
257 current agent, so long as that agent is duly licensed and
258 appointed by the insurance risk apportionment plan or otherwise
259 authorized to place business with the insurance risk
260 apportionment plan. This right shall not be canceled, suspended,

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

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