



1 A bill to be entitled
2 An act relating to operations of the Citizens Property
3 Insurance Corporation; amending s. 627.351, F.S.;
4 specifying that a consumer representative appointed by
5 the Governor to the Citizens Property Insurance
6 Corporation's board of governors is not prohibited
7 from practicing in a certain profession if required or
8 permitted by law or ordinance; revising the
9 requirements for licensed agents of the corporation;
10 authorizing the use of specified information by
11 certain entities in analyzing risks and prohibiting
12 the use of such information for the direct
13 solicitation of policyholders; requiring the take-out
14 program to be revised for specified purposes;
15 requiring policyholders after a specified date to
16 receive certain information relating to a
17 demonstration of interest to insure by private
18 insurers; requiring the corporation to develop uniform
19 formats for certain information; allowing a
20 policyholder to elect to limit the frequency of
21 solicitations for take-out offers; providing
22 circumstances under which a policyholder whose policy
23 was taken out to be considered a renewal policyholder
24 for certain rate increase purposes; providing an
25 effective date.
26



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

28

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

32 627.351 Insurance risk apportionment plans.—

33 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

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

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

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

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



53 market.

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

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

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

67 g. Effective January 1, 2013, the corporation shall offer
68 a 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



79 | in 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
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
114 into between an authorized insurer and the corporation must
115 provide for a uniform specified percentage of coverage of
116 hurricane losses, by county or territory as set forth by the
117 corporation board, for all eligible risks of the authorized
118 insurer covered under the agreement.

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

125 f. For all eligible risks covered under quota share
126 primary insurance agreements, the exposure and coverage levels
127 for both the corporation and authorized insurers shall be
128 reported by the corporation to the Florida Hurricane Catastrophe
129 Fund. For all policies of eligible risks covered under such
130 agreements, the corporation and the authorized insurer must



131 maintain complete and accurate records for the purpose of
132 exposure and loss reimbursement audits as required by fund
133 rules. The corporation and the authorized insurer shall each
134 maintain duplicate copies of policy declaration pages and
135 supporting claims documents.

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

142 h. The quota share primary insurance agreement between the
143 corporation and an authorized insurer must set forth the
144 specific terms under which coverage is provided, including, but
145 not limited to, the sale and servicing of policies issued under
146 the agreement by the insurance agent of the authorized insurer
147 producing the business, the reporting of information concerning
148 eligible risks, the payment of premium to the corporation, and
149 arrangements for the adjustment and payment of hurricane claims
150 incurred on eligible risks by the claims adjuster and personnel
151 of the authorized insurer. Entering into a quota sharing
152 insurance agreement between the corporation and an authorized
153 insurer is voluntary and at the discretion of the authorized
154 insurer.

155 3. May provide that the corporation may employ or
156 otherwise contract with individuals or other entities to provide



157 administrative or professional services that may be appropriate
158 to effectuate the plan. The corporation may borrow funds by
159 issuing bonds or by incurring other indebtedness, and shall have
160 other powers reasonably necessary to effectuate the requirements
161 of this subsection, including, without limitation, the power to
162 issue bonds and incur other indebtedness in order to refinance
163 outstanding bonds or other indebtedness. The corporation may
164 seek judicial validation of its bonds or other indebtedness
165 under chapter 75. The corporation may issue bonds or incur other
166 indebtedness, or have bonds issued on its behalf by a unit of
167 local government pursuant to subparagraph (q)2. in the absence
168 of a hurricane or other weather-related event, upon a
169 determination by the corporation, subject to approval by the
170 office, that such action would enable it to efficiently meet the
171 financial obligations of the corporation and that such
172 financings are reasonably necessary to effectuate the
173 requirements of this subsection. The corporation may take all
174 actions needed to facilitate tax-free status for such bonds or
175 indebtedness, including formation of trusts or other affiliated
176 entities. The corporation may pledge assessments, projected
177 recoveries from the Florida Hurricane Catastrophe Fund, other
178 reinsurance recoverables, policyholder surcharges and other
179 surcharges, and other funds available to the corporation as
180 security for bonds or other indebtedness. In recognition of s.
181 10, Art. I of the State Constitution, prohibiting the impairment
182 of obligations of contracts, it is the intent of the Legislature



183 that no action be taken whose purpose is to impair any bond
184 indenture or financing agreement or any revenue source committed
185 by contract to such bond or other indebtedness.

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

195 a. The Governor, the Chief Financial Officer, the
196 President of the Senate, and the Speaker of the House of
197 Representatives shall each appoint two members of the board. At
198 least one of the two members appointed by each appointing
199 officer must have demonstrated expertise in insurance and be
200 deemed to be within the scope of the exemption provided in s.
201 112.313(7)(b). The Chief Financial Officer shall designate one
202 of the appointees as chair. All board members serve at the
203 pleasure of the appointing officer. All members of the board are
204 subject to removal at will by the officers who appointed them.
205 All board members, including the chair, must be appointed to
206 serve for 3-year terms beginning annually on a date designated
207 by the plan. However, for the first term beginning on or after
208 July 1, 2009, each appointing officer shall appoint one member



209 of the board for a 2-year term and one member for a 3-year term.
210 A board vacancy shall be filled for the unexpired term by the
211 appointing officer. The Chief Financial Officer shall appoint a
212 technical advisory group to provide information and advice to
213 the board in connection with the board's duties under this
214 subsection. The executive director and senior managers of the
215 corporation shall be engaged by the board and serve at the
216 pleasure of the board. Any executive director appointed on or
217 after July 1, 2006, is subject to confirmation by the Senate.
218 The executive director is responsible for employing other staff
219 as the corporation may require, subject to review and
220 concurrence by the board.

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

226 (I) The members of the advisory committee consist of the
227 following 11 persons, one of whom must be elected chair by the
228 members of the committee: four representatives, one appointed by
229 the Florida Association of Insurance Agents, one by the Florida
230 Association of Insurance and Financial Advisors, one by the
231 Professional Insurance Agents of Florida, and one by the Latin
232 American Association of Insurance Agencies; three
233 representatives appointed by the insurers with the three highest
234 voluntary market share of residential property insurance



235 business in the state; one representative from the Office of
236 Insurance Regulation; one consumer appointed by the board who is
237 insured by the corporation at the time of appointment to the
238 committee; one representative appointed by the Florida
239 Association of Realtors; and one representative appointed by the
240 Florida Bankers Association. All members shall be appointed to
241 3-year terms and may serve for consecutive terms.

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

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

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

260 Whenever an offer of coverage for a personal lines residential



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

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

286 (A) Pay to the producing agent of record of the policy for



287 the first year, an amount that is the greater of the insurer's
288 usual and customary commission for the type of policy written or
289 a fee equal to the usual and customary commission of the
290 corporation; or

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

296

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

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

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

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



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

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

335 (I) If the risk accepts an offer of coverage through the
336 market assistance plan or through a mechanism established by the
337 corporation other than a plan established by s. 627.3518, before
338 a policy is issued to the risk by the corporation or during the



339 first 30 days of coverage by the corporation, and the producing
340 agent who submitted the application to the plan or the
341 corporation is not currently appointed by the insurer, the
342 insurer shall:

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

348 (B) Offer to allow the producing agent of record of the
349 policy to continue servicing the policy for at least 1 year and
350 offer to pay the agent the greater of the insurer's or the
351 corporation's usual and customary commission for the type of
352 policy written.

353

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

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

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



365 or

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

370

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

374 c. For purposes of determining comparable coverage under
375 sub-subparagraphs a. and b., the comparison must be based on
376 those forms and coverages that are reasonably comparable. The
377 corporation may rely on a determination of comparable coverage
378 and premium made by the producing agent who submits the
379 application to the corporation, made in the agent's capacity as
380 the corporation's agent. A comparison may be made solely of the
381 premium with respect to the main building or structure only on
382 the following basis: the same coverage A or other building
383 limits; the same percentage hurricane deductible that applies on
384 an annual basis or that applies to each hurricane for commercial
385 residential property; the same percentage of ordinance and law
386 coverage, if the same limit is offered by both the corporation
387 and the authorized insurer; the same mitigation credits, to the
388 extent the same types of credits are offered both by the
389 corporation and the authorized insurer; the same method for loss
390 payment, such as replacement cost or actual cash value, if the



391 same method is offered both by the corporation and the
392 authorized insurer in accordance with underwriting rules; and
393 any other form or coverage that is reasonably comparable as
394 determined by the board. If an application is submitted to the
395 corporation for wind-only coverage in the coastal account, the
396 premium for the corporation's wind-only policy plus the premium
397 for the ex-wind policy that is offered by an authorized insurer
398 to the applicant must be compared to the premium for multiperil
399 coverage offered by an authorized insurer, subject to the
400 standards for comparison specified in this subparagraph. If the
401 corporation or the applicant requests from the authorized
402 insurer a breakdown of the premium of the offer by types of
403 coverage so that a comparison may be made by the corporation or
404 its agent and the authorized insurer refuses or is unable to
405 provide such information, the corporation may treat the offer as
406 not being an offer of coverage from an authorized insurer at the
407 insurer's approved rate.

408 6. Must include rules for classifications of risks and
409 rates.

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



417 insureds as to any calendar year.

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

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

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

428

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

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

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

442 11. Corporation policies and applications must include a



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

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

463 13. Must provide that, with respect to the coastal
464 account, any assessable insurer with a surplus as to
465 policyholders of \$25 million or less writing 25 percent or more
466 of its total countrywide property insurance premiums in this
467 state may petition the office, within the first 90 days of each
468 calendar year, to qualify as a limited apportionment company. A



469 regular assessment levied by the corporation on a limited
470 apportionment company for a deficit incurred by the corporation
471 for the coastal account may be paid to the corporation on a
472 monthly basis as the assessments are collected by the limited
473 apportionment company from its insureds, but a limited
474 apportionment company must begin collecting the regular
475 assessments not later than 90 days after the regular assessments
476 are levied by the corporation, and the regular assessments must
477 be paid in full within 15 months after being levied by the
478 corporation. A limited apportionment company shall collect from
479 its policyholders any emergency assessment imposed under sub-
480 subparagraph (b)3.d. The plan must provide that, if the office
481 determines that any regular assessment will result in an
482 impairment of the surplus of a limited apportionment company,
483 the office may direct that all or part of such assessment be
484 deferred as provided in subparagraph (q)4. However, an emergency
485 assessment to be collected from policyholders under sub-
486 subparagraph (b)3.d. may not be limited or deferred.

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



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

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

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

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

509 b. Carports that are aluminum or carports that are not
510 covered by the same or substantially the same materials as those
511 of the primary dwelling; and

512 c. Patios that have a roof covering that is constructed of
513 materials that are not the same or substantially the same
514 materials as those of the primary dwelling.

515
516 The corporation shall make available a policy for mobile homes
517 or manufactured homes for a minimum insured value of at least
518 \$3,000.

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



521 19. May require commercial property to meet specified
522 hurricane mitigation construction features as a condition of
523 eligibility for coverage.

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

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

537 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE

538 AND ASSESSMENT LIABILITY:

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



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

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

558 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
559 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
560 STATE OF FLORIDA.

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

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

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

572 a. Underwriting files, except that a policyholder or an



573 applicant shall have access to his or her own underwriting
574 files. Confidential and exempt underwriting file records may
575 also be released to other governmental agencies upon written
576 request and demonstration of need; such records held by the
577 receiving agency remain confidential and exempt as provided
578 herein.

579 b. Claims files, until termination of all litigation and
580 settlement of all claims arising out of the same incident,
581 although portions of the claims files may remain exempt, as
582 otherwise provided by law. Confidential and exempt claims file
583 records may be released to other governmental agencies upon
584 written request and demonstration of need; such records held by
585 the receiving agency remain confidential and exempt as provided
586 herein.

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

595 d. Matters reasonably encompassed in privileged attorney-
596 client communications.

597 e. Proprietary information licensed to the corporation
598 under contract and the contract provides for the confidentiality



599 of such proprietary information.

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

607 g. Upon an employee's entrance into the employee
608 assistance program, a program to assist any employee who has a
609 behavioral or medical disorder, substance abuse problem, or
610 emotional difficulty which affects the employee's job
611 performance, all records relative to that participation shall be
612 confidential and exempt from the provisions of s. 119.07(1) and
613 s. 24(a), Art. I of the State Constitution, except as otherwise
614 provided in s. 112.0455(11).

615 h. Information relating to negotiations for financing,
616 reinsurance, depopulation, or contractual services, until the
617 conclusion of the negotiations.

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

623 2. If an authorized insurer is considering underwriting a
624 risk insured by the corporation, relevant underwriting files and



625 confidential claims files may be released to the insurer
626 provided the insurer agrees in writing, notarized and under
627 oath, to maintain the confidentiality of such files. If a file
628 is transferred to an insurer, that file is no longer a public
629 record because it is not held by an agency subject to the
630 provisions of the public records law. Underwriting files and
631 confidential claims files may also be released to staff and the
632 board of governors of the market assistance plan established
633 pursuant to s. 627.3515, who must retain the confidentiality of
634 such files, except such files may be released to authorized
635 insurers that are considering assuming the risks to which the
636 files apply, provided the insurer agrees in writing, notarized
637 and under oath, to maintain the confidentiality of such files.
638 Finally, the corporation or the board or staff of the market
639 assistance plan may make the following information obtained from
640 underwriting files and confidential claims files available to
641 licensed general lines insurance agents: name, address, and
642 telephone number of the residential property owner or insured;
643 location of the risk; rating information; loss history; and
644 policy type. The receiving licensed general lines insurance
645 agent must retain the confidentiality of the information
646 received and may use the information only for the purposes of
647 developing a take-out plan to be submitted to the office for
648 approval or otherwise analyzing the underwriting of a risk or
649 risks insured by the corporation on behalf of the private
650 insurance market. The licensed general lines agent and an



651 insurer receiving information under this subparagraph may not
652 use the information for the direct solicitation of
653 policyholders. An entity that has obtained a permit to become an
654 authorized insurer, a reinsurer, a reinsurance broker, or a
655 modeling company may receive the information available to a
656 licensed general lines agent for the sole purpose of analyzing
657 risks for underwriting in the private insurance market and must
658 retain the confidentiality of the information received. Such
659 entities may not use the information for the direct solicitation
660 of policyholders.

661 3. A policyholder who has filed suit against the
662 corporation has the right to discover the contents of his or her
663 own claims file to the same extent that discovery of such
664 contents would be available from a private insurer in litigation
665 as provided by the Florida Rules of Civil Procedure, the Florida
666 Evidence Code, and other applicable law. Pursuant to subpoena, a
667 third party has the right to discover the contents of an
668 insured's or applicant's underwriting or claims file to the same
669 extent that discovery of such contents would be available from a
670 private insurer by subpoena as provided by the Florida Rules of
671 Civil Procedure, the Florida Evidence Code, and other applicable
672 law, and subject to any confidentiality protections requested by
673 the corporation and agreed to by the seeking party or ordered by
674 the court. The corporation may release confidential underwriting
675 and claims file contents and information as it deems necessary
676 and appropriate to underwrite or service insurance policies and



677 claims, subject to any confidentiality protections deemed
678 necessary and appropriate by the corporation.

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

695 (ii) The corporation shall revise the programs adopted
696 pursuant to sub-subparagraph (6)(q)3.a. to maximize policyholder
697 options and encourage increased participation by insurers and
698 agents.

699 1. After January 1, 2016, such revisions must include a
700 process by which policyholders are informed if one or more
701 insurers demonstrate an interest in taking out that policy from
702 the corporation. This demonstration of interest must include the



703 amount of the estimated premium, a description of the coverage,
704 including an explanation of differences, and a comparison of the
705 estimated premium and coverage offered by the insurer to the
706 estimated premium and coverage provided by the corporation. The
707 corporation shall develop a uniform format for the estimated
708 premium and coverage information required by this subparagraph.
709 After January 1, 2016, a policy may not be taken out from the
710 corporation unless the provisions of this subparagraph are met.

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

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

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