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1  
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.  
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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



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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



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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



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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



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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



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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



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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





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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



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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



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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



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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.



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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



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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;



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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



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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





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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



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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



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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.



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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.



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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.



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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



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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



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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





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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



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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



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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



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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.