

1                   A bill to be entitled  
2           An act relating to Citizens Property Insurance  
3           Corporation; amending s. 215.555, F.S.; revising the  
4           definition of the term "covered policy"; amending s.  
5           626.752, F.S.; expanding an exemption from the  
6           requirements of that section which applies to the  
7           corporation to exempt additional specified activities  
8           of the corporation; amending s. 627.351, F.S.;  
9           revising requirements relating to quota share primary  
10          insurance agreements; requiring the corporation's plan  
11          of operation to adopt a program that facilitates the  
12          removal of risks in which the corporation offers  
13          reinsurance to authorized insurers that are willing to  
14          assume risks from the corporation; specifying  
15          limitations on the corporation's participation in the  
16          assumption of risk in agreements executed under the  
17          program; deleting and revising related terms;  
18          providing that entering into specified agreements is  
19          at the discretion of the insurer; providing that if  
20          the corporation is the reinsurer, all forms and  
21          endorsements must be approved by the Office of  
22          Insurance Regulation; prohibiting the corporation from  
23          sharing risk for certain damages; requiring the  
24          corporation and each insurer to report additional  
25          information to the fund and requiring the State Board  
26          of Administration to adopt rules to administer this

27 requirement; revising the procedures for determining  
 28 whether a risk is eligible for the corporation;  
 29 providing an effective date.

30  
 31 Be It Enacted by the Legislature of the State of Florida:

32  
 33 Section 1. Paragraph (c) of subsection (2) of section  
 34 215.555, Florida Statutes, is amended to read:

35 215.555 Florida Hurricane Catastrophe Fund.—

36 (2) DEFINITIONS.—As used in this section:

37 (c) "Covered policy" means any insurance policy covering  
 38 residential property in this state, including, but not limited  
 39 to, a ~~any~~ homeowner, mobile home owner, farm owner, condominium  
 40 association, condominium unit owner, tenant, or apartment  
 41 building policy, or any other policy covering a residential  
 42 structure or its contents issued by an ~~any~~ authorized insurer,  
 43 including a commercial self-insurance fund holding a certificate  
 44 of authority issued by the Office of Insurance Regulation under  
 45 s. 624.462, the Citizens Property Insurance Corporation, and any  
 46 joint underwriting association or similar entity created under  
 47 law. The term ~~"covered policy"~~ includes any collateral  
 48 protection insurance policy covering personal residences which  
 49 protects both the borrower's and the lender's financial  
 50 interests, in an amount at least equal to the coverage for the  
 51 dwelling in place under the lapsed homeowner's policy, if such  
 52 policy can be accurately reported as required under ~~in~~

53 subsection (5). ~~Additionally,~~ Covered policies also include  
 54 policies covering the peril of wind removed from ~~the Florida~~  
 55 ~~Residential Property and Casualty Joint Underwriting Association~~  
 56 ~~or from the~~ Citizens Property Insurance Corporation, created  
 57 under s. 627.351(6), ~~or from the Florida Windstorm Underwriting~~  
 58 ~~Association, created under s. 627.351(2),~~ by an authorized  
 59 insurer under the terms and conditions of an executed Citizens  
 60 Property Insurance Corporation assumption or reinsurance  
 61 agreement between the authorized insurer and the such  
 62 ~~association or Citizens Property Insurance~~ corporation. Each  
 63 assumption or reinsurance agreement between the ~~association and~~  
 64 ~~such~~ authorized insurer and the ~~or Citizens Property Insurance~~  
 65 corporation must be approved by the Office of Insurance  
 66 Regulation before the effective date of the agreement  
 67 ~~assumption,~~ and the office ~~of Insurance Regulation~~ must provide  
 68 written notification to the board within 15 working days after  
 69 such approval. The term "covered policy" does not include any  
 70 policy that excludes wind coverage or hurricane coverage or any  
 71 reinsurance agreement, other than a Citizens Property Insurance  
 72 Corporation reinsurance agreement, and does not include any  
 73 policy otherwise meeting this definition which is issued by a  
 74 surplus lines insurer or a reinsurer. All commercial residential  
 75 excess policies and all deductible buy-back policies that, based  
 76 on sound actuarial principles, require individual ratemaking  
 77 shall be excluded by rule if the actuarial soundness of the fund  
 78 is not jeopardized. For this purpose, the term "excess policy"

79 means a policy that provides insurance protection for large  
 80 commercial property risks and that provides a layer of coverage  
 81 above a primary layer insured by another insurer.

82 Section 2. Subsection (4) of section 626.752, Florida  
 83 Statutes, is amended to read:

84 626.752 Exchange of business.—

85 (4) The foregoing limitations and restrictions do ~~shall~~  
 86 ~~not be construed and shall~~ not apply to the placing of surplus  
 87 lines business under the provisions of part VIII of this chapter  
 88 or to the activities of Citizens Property Insurance Corporation  
 89 in placing new and renewal business with authorized insurers in  
 90 accordance with s. 627.3518 or in conjunction with efforts to  
 91 reduce the size of the corporation pursuant to s. 627.351(6).

92 Section 3. Paragraph (c) of subsection (6) of section  
 93 627.351, Florida Statutes, is amended to read:

94 627.351 Insurance risk apportionment plans.—

95 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

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

102 a. Standard personal lines policy forms that are  
 103 comprehensive multiperil policies providing full coverage of a  
 104 residential property equivalent to the coverage provided in the

105 private insurance market under an HO-3, HO-4, or HO-6 policy.

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

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

116       d. Personal lines and commercial lines residential  
117 property insurance forms that cover the peril of wind only. Such  
118 ~~The~~ forms are applicable only to residential properties located  
119 in areas eligible for coverage under the coastal account  
120 referred to in sub-subparagraph (b)2.a.

121       e. Commercial lines nonresidential property insurance  
122 forms that cover the peril of wind only. Such ~~The~~ forms are  
123 applicable only to nonresidential properties located in areas  
124 eligible for coverage under the coastal account referred to in  
125 sub-subparagraph (b)2.a.

126       f. The corporation may adopt variations of the policy  
127 forms listed in sub-subparagraphs a.-e. which contain more  
128 restrictive coverage.

129       g. Effective January 1, 2013, the corporation shall offer  
130 a basic personal lines policy similar to an HO-8 policy with

131 dwelling repair based on common construction materials and  
 132 methods.

133 2. Must ~~provide that the corporation~~ adopt a program for  
 134 the purpose of encouraging and facilitating the removal of risks  
 135 from the corporation in which the corporation offers reinsurance  
 136 that may be proportional or nonproportional to ~~and~~ authorized  
 137 insurers that are willing to assume risks from the corporation  
 138 pursuant to terms and conditions that are acceptable to the  
 139 corporation. The corporation's participation in each agreement  
 140 executed under the program may not exceed assumption of 80  
 141 percent of the risk subject to the agreement ~~enter into quota~~  
 142 ~~share primary insurance agreements for hurricane coverage, as~~  
 143 ~~defined in s. 627.4025(2)(a), for eligible risks, and adopt~~  
 144 ~~property insurance forms for eligible risks which cover the~~  
 145 ~~peril of wind only. Such agreement may provide for a decline in~~  
 146 the corporation's participation in the assumption of risk for a  
 147 period of up to 5 years.

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

149 ~~(I) "Quota share primary insurance" means an arrangement~~  
 150 ~~in which the primary hurricane coverage of an eligible risk is~~  
 151 ~~provided in specified percentages by the corporation and an~~  
 152 ~~authorized insurer. The corporation and authorized insurer are~~  
 153 ~~each solely responsible for a specified percentage of hurricane~~  
 154 ~~coverage of an eligible risk as set forth in a quota share~~  
 155 ~~primary insurance agreement between the corporation and an~~  
 156 ~~authorized insurer and the insurance contract. The~~

157 ~~responsibility of the corporation or authorized insurer to pay~~  
158 ~~its specified percentage of hurricane losses of an eligible~~  
159 ~~risk, as set forth in the agreement, may not be altered by the~~  
160 ~~inability of the other party to pay its specified percentage of~~  
161 ~~losses. Eligible risks that are provided hurricane coverage~~  
162 ~~through a quota share primary insurance arrangement must be~~  
163 ~~provided policy forms that set forth the obligations of the~~  
164 ~~corporation and authorized insurer under the arrangement,~~  
165 ~~clearly specify the percentages of quota share primary insurance~~  
166 ~~provided by the corporation and authorized insurer, and~~  
167 ~~conspicuously and clearly state that the authorized insurer and~~  
168 ~~the corporation may not be held responsible beyond their~~  
169 ~~specified percentage of coverage of hurricane losses.~~

170 ~~(II)~~ "eligible risks" means personal lines residential and  
171 commercial lines residential risks that are currently insured by  
172 meet the underwriting criteria of the corporation and are  
173 located in areas that were eligible for coverage by the Florida  
174 Windstorm Underwriting Association on January 1, 2002.

175 b. Entering into an excess-of-loss reinsurance agreement,  
176 quota share reinsurance agreement, or quota share primary  
177 insurance agreement between the corporation and an authorized  
178 insurer is voluntary and at the discretion of the authorized  
179 insurer.

180 ~~b. The corporation may enter into quota share primary~~  
181 ~~insurance agreements with authorized insurers at corporation~~  
182 ~~coverage levels of 90 percent and 50 percent.~~

183 ~~e. If the corporation determines that additional coverage~~  
 184 ~~levels are necessary to maximize participation in quota share~~  
 185 ~~primary insurance agreements by authorized insurers, the~~  
 186 ~~corporation may establish additional coverage levels. However,~~  
 187 ~~the corporation's quota share primary insurance coverage level~~  
 188 ~~may not exceed 90 percent.~~

189 ~~d. Any quota share primary insurance agreement entered~~  
 190 ~~into between an authorized insurer and the corporation must~~  
 191 ~~provide for a uniform specified percentage of coverage of~~  
 192 ~~hurricane losses, by county or territory as set forth by the~~  
 193 ~~corporation board, for all eligible risks of the authorized~~  
 194 ~~insurer covered under the agreement.~~

195 c.e. Any excess-of-loss reinsurance agreement, quota share  
 196 reinsurance agreement, or quota share primary insurance  
 197 agreement entered into between an authorized insurer and the  
 198 corporation is subject to review and approval by the office.  
 199 However, such agreement may shall be authorized only for as to  
 200 insurance contracts entered into between an authorized insurer  
 201 and an insured who is already insured by the corporation for  
 202 wind coverage. If the corporation is the reinsurer, the  
 203 insurance policy forms and endorsements offered by the  
 204 authorized insurer must be approved by the office, cover all  
 205 perils that are the subjects of the risk-sharing agreement, and  
 206 cover at least the same limits as the corporation policies being  
 207 replaced.

208 d. The corporation may not share risk for extra



209 contractual damages at common law or under s. 624.155.

210 ~~e.f.~~ For all eligible risks covered under quota share  
211 primary insurance agreements, the exposure and coverage levels  
212 for both the corporation and authorized insurers must ~~shall~~ be  
213 reported by the corporation to the Florida Hurricane Catastrophe  
214 Fund. For all policies of eligible risks covered under such  
215 agreements, the corporation and the authorized insurer must  
216 maintain complete and accurate records for the purpose of  
217 exposure and loss reimbursement audits as required by fund  
218 rules. The corporation and the authorized insurer shall each  
219 maintain duplicate copies of policy declaration pages and  
220 supporting claims documents.

221 f. To ensure that exposures are accurately reported to the  
222 Florida Hurricane Catastrophe Fund, the corporation and each  
223 insurer participating in the reinsurance program shall report  
224 its exposure under covered policies to the fund as required  
225 under s. 215.555(5)(c). Each report must also specify the  
226 percentage of liability applicable to the corporation and the  
227 percentage applicable to the insurer with respect to quota share  
228 and similar agreements, or the terms of the excess-of-loss  
229 agreement in the case of such an agreement. Pursuant to its  
230 authority under s. 215.555, the State Board of Administration  
231 shall adopt rules to administer this sub-subparagraph.

232 ~~g. The corporation board shall establish in its plan of~~  
233 ~~operation standards for quota share agreements which ensure that~~  
234 ~~there is no discriminatory application among insurers as to the~~

235 ~~terms of the agreements, pricing of the agreements, incentive~~  
236 ~~provisions if any, and consideration paid for servicing policies~~  
237 ~~or adjusting claims.~~

238 ~~h. The quota share primary insurance agreement between the~~  
239 ~~corporation and an authorized insurer must set forth the~~  
240 ~~specific terms under which coverage is provided, including, but~~  
241 ~~not limited to, the sale and servicing of policies issued under~~  
242 ~~the agreement by the insurance agent of the authorized insurer~~  
243 ~~producing the business, the reporting of information concerning~~  
244 ~~eligible risks, the payment of premium to the corporation, and~~  
245 ~~arrangements for the adjustment and payment of hurricane claims~~  
246 ~~incurred on eligible risks by the claims adjuster and personnel~~  
247 ~~of the authorized insurer. Entering into a quota sharing~~  
248 ~~insurance agreement between the corporation and an authorized~~  
249 ~~insurer is voluntary and at the discretion of the authorized~~  
250 ~~insurer.~~

251 3. May provide that the corporation may employ or  
252 otherwise contract with individuals or other entities to provide  
253 administrative or professional services that may be appropriate  
254 to effectuate the plan. The corporation may borrow funds by  
255 issuing bonds or by incurring other indebtedness, and shall have  
256 other powers reasonably necessary to effectuate the requirements  
257 of this subsection, including, without limitation, the power to  
258 issue bonds and incur other indebtedness in order to refinance  
259 outstanding bonds or other indebtedness. The corporation may  
260 seek judicial validation of its bonds or other indebtedness

261 under chapter 75. The corporation may issue bonds or incur other  
 262 indebtedness, or have bonds issued on its behalf by a unit of  
 263 local government pursuant to subparagraph (q)2. in the absence  
 264 of a hurricane or other weather-related event, upon a  
 265 determination by the corporation, subject to approval by the  
 266 office, that such action would enable it to efficiently meet the  
 267 financial obligations of the corporation and that such  
 268 financings are reasonably necessary to effectuate the  
 269 requirements of this subsection. The corporation may take all  
 270 actions needed to facilitate tax-free status for such bonds or  
 271 indebtedness, including formation of trusts or other affiliated  
 272 entities. The corporation may pledge assessments, projected  
 273 recoveries from the Florida Hurricane Catastrophe Fund, other  
 274 reinsurance recoverables, policyholder surcharges and other  
 275 surcharges, and other funds available to the corporation as  
 276 security for bonds or other indebtedness. In recognition of s.  
 277 10, Art. I of the State Constitution, prohibiting the impairment  
 278 of obligations of contracts, it is the intent of the Legislature  
 279 that ~~no~~ action may not be taken whose purpose is to impair any  
 280 bond indenture or financing agreement or any revenue source  
 281 committed by contract to such bond or other indebtedness.

282 4. Must require that the corporation operate subject to  
 283 the supervision and approval of a board of governors consisting  
 284 of nine individuals who are residents of this state and who are  
 285 from different geographical areas of the state, one of whom is  
 286 appointed by the Governor and serves solely to advocate on

287 | behalf of the consumer. The appointment of a consumer  
288 | representative by the Governor is in addition to the  
289 | appointments authorized under sub-subparagraph a.

290 |       a. The Governor, the Chief Financial Officer, the  
291 | President of the Senate, and the Speaker of the House of  
292 | Representatives shall each appoint two members of the board. At  
293 | least one of the two members appointed by each appointing  
294 | officer must have demonstrated expertise in insurance and be  
295 | deemed to be within the scope of the exemption provided in s.  
296 | 112.313(7)(b). The Chief Financial Officer shall designate one  
297 | of the appointees as chair. All board members serve at the  
298 | pleasure of the appointing officer. All members of the board are  
299 | subject to removal at will by the officers who appointed them.  
300 | All board members, including the chair, must be appointed to  
301 | serve for 3-year terms beginning annually on a date designated  
302 | by the plan. However, for the first term beginning on or after  
303 | July 1, 2009, each appointing officer shall appoint one member  
304 | of the board for a 2-year term and one member for a 3-year term.  
305 | A board vacancy shall be filled for the unexpired term by the  
306 | appointing officer. The Chief Financial Officer shall appoint a  
307 | technical advisory group to provide information and advice to  
308 | the board in connection with the board's duties under this  
309 | subsection. The executive director and senior managers of the  
310 | corporation shall be engaged by the board and serve at the  
311 | pleasure of the board. Any executive director appointed on or  
312 | after July 1, 2006, is subject to confirmation by the Senate.

HB 1307

2015

313 The executive director is responsible for employing other staff  
314 as the corporation may require, subject to review and  
315 concurrence by the board.

316 b. The board shall create a Market Accountability Advisory  
317 Committee to assist the corporation in developing awareness of  
318 its rates and its customer and agent service levels in  
319 relationship to the voluntary market insurers writing similar  
320 coverage.

321 (I) The members of the advisory committee consist of the  
322 following 11 persons, one of whom must be elected chair by the  
323 members of the committee: four representatives, one appointed by  
324 the Florida Association of Insurance Agents, one by the Florida  
325 Association of Insurance and Financial Advisors, one by the  
326 Professional Insurance Agents of Florida, and one by the Latin  
327 American Association of Insurance Agencies; three  
328 representatives appointed by the insurers with the three highest  
329 voluntary market share of residential property insurance  
330 business in the state; one representative from the Office of  
331 Insurance Regulation; one consumer appointed by the board who is  
332 insured by the corporation at the time of appointment to the  
333 committee; one representative appointed by the Florida  
334 Association of Realtors; and one representative appointed by the  
335 Florida Bankers Association. All members shall be appointed to  
336 3-year terms and may serve for consecutive terms.

337 (II) The committee shall report to the corporation at each  
338 board meeting on insurance market issues that ~~which~~ may include

339 rates and rate competition within ~~with~~ the voluntary market;  
340 service, including policy issuance, claims processing, and  
341 general responsiveness to policyholders, applicants, and agents;  
342 and matters relating to depopulation.

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

345 a. Subject to s. 627.3517, with respect to personal lines  
346 residential risks, if the risk is offered new or renewal  
347 coverage from an authorized insurer at the insurer's approved  
348 rate under a standard policy including wind coverage or, if  
349 consistent with the insurer's underwriting rules as filed with  
350 the office, a new or renewal basic policy including wind  
351 coverage, for a new or renewal application to the corporation  
352 for coverage, the risk is not eligible for any new or renewal  
353 policy issued by the corporation unless the premium for coverage  
354 from the authorized insurer is more than 15 percent greater than  
355 the premium for comparable coverage from the corporation.  
356 Whenever an offer of coverage for a personal lines residential  
357 risk is received for a policyholder of the corporation at  
358 renewal from an authorized insurer, if the offer is equal to or  
359 less than the corporation's renewal premium for comparable  
360 coverage, the risk is not eligible for coverage with the  
361 corporation. If the risk is not able to obtain such offer, the  
362 risk is eligible for a standard policy including wind coverage  
363 or a basic policy including wind coverage issued by the  
364 corporation; however, if the risk could not be insured under a

365 standard policy including wind coverage regardless of market  
366 conditions, the risk is eligible for a basic policy including  
367 wind coverage unless rejected under subparagraph 8. ~~However, a~~  
368 ~~policyholder removed from the corporation through an assumption~~  
369 ~~agreement remains eligible for coverage from the corporation~~  
370 ~~until the end of the assumption period.~~ The corporation shall  
371 determine the type of policy to be provided on the basis of  
372 objective standards specified in the underwriting manual and  
373 based on generally accepted underwriting practices.

374 (I) If the risk accepts an offer of coverage through the  
375 market assistance plan or through a mechanism established by the  
376 corporation other than a plan established by s. 627.3518, before  
377 a policy is issued to the risk by the corporation or during the  
378 first 30 days of coverage by the corporation, and the producing  
379 agent who submitted the application to the plan or to the  
380 corporation is not currently appointed by the insurer, the  
381 insurer shall:

382 (A) Pay to the producing agent of record ~~of the policy~~ for  
383 the first year, an amount that is the greater of the insurer's  
384 usual and customary commission for the type of policy written or  
385 a fee equal to the usual and customary commission of the  
386 corporation; or

387 (B) Offer to allow the producing agent of record ~~of the~~  
388 ~~policy~~ to continue servicing the policy for at least 1 year and  
389 offer to pay the agent the greater of the insurer's or the  
390 corporation's usual and customary commission for the type of

391 policy written.

392

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

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

400 (A) Pay to the producing agent of record, for the first  
 401 year, an amount that is the greater of the insurer's usual and  
 402 customary commission for the type of policy written or a fee  
 403 equal to the usual and customary commission of the corporation;  
 404 or

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

409

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

413 b. With respect to commercial lines residential risks, for  
 414 a new application to the corporation for coverage, if the risk  
 415 is offered coverage under a policy including wind coverage from  
 416 an authorized insurer at its approved rate, the risk is not



417 eligible for a policy issued by the corporation unless the  
418 premium for coverage from the authorized insurer is more than 15  
419 percent greater than the premium for comparable coverage from  
420 the corporation. Whenever an offer of coverage for a commercial  
421 lines residential risk is received for a policyholder of the  
422 corporation at renewal from an authorized insurer, if the offer  
423 is equal to or less than the corporation's renewal premium for  
424 comparable coverage, the risk is not eligible for coverage with  
425 the corporation. If the risk is not able to obtain ~~any~~ such  
426 offer, the risk is eligible for a policy including wind coverage  
427 issued by the corporation. However, a policyholder removed from  
428 the corporation through an assumption agreement remains eligible  
429 for coverage from the corporation until the end of the  
430 assumption period.

431 (I) If the risk accepts an offer of coverage through the  
432 market assistance plan or through a mechanism established by the  
433 corporation other than a plan established by s. 627.3518, before  
434 a policy is issued to the risk by the corporation or during the  
435 first 30 days of coverage by the corporation, and the producing  
436 agent who submitted the application to the plan or the  
437 corporation is not currently appointed by the insurer, the  
438 insurer shall:

439 (A) Pay to the producing agent of record ~~of the policy,~~  
440 for the first year, an amount that is the greater of the  
441 insurer's usual and customary commission for the type of policy  
442 written or a fee equal to the usual and customary commission of

443 the corporation; or

444 (B) Offer to allow the producing agent of record ~~of the~~  
 445 ~~policy~~ to continue servicing the policy for at least 1 year and  
 446 offer to pay the agent the greater of the insurer's or the  
 447 corporation's usual and customary commission for the type of  
 448 policy written.

449

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

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

457 (A) Pay to the producing agent of record, for the first  
 458 year, an amount that is the greater of the insurer's usual and  
 459 customary commission for the type of policy written or a fee  
 460 equal to the usual and customary commission of the corporation;  
 461 or

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

466

467 If the producing agent is unwilling or unable to accept  
 468 appointment, the new insurer shall pay the agent in accordance

469 with sub-sub-sub-subparagraph (A).

470 c. For purposes of determining comparable coverage under  
471 sub-subparagraphs a. and b., the comparison must be based on  
472 those forms and coverages that are reasonably comparable. The  
473 corporation may rely on a determination of comparable coverage  
474 and premium made by the producing agent who submits the  
475 application to the corporation, made in the agent's capacity as  
476 the corporation's agent. A comparison may be made ~~solely~~ of the  
477 premium with respect to the main building or structure only on  
478 the following basis: the same coverage A or other building  
479 limits; the same percentage hurricane deductible that applies on  
480 an annual basis or that applies to each hurricane for commercial  
481 residential property; the same percentage of ordinance and law  
482 coverage, if the same limit is offered by both the corporation  
483 and the authorized insurer; the same mitigation credits, to the  
484 extent the same types of credits are offered both by the  
485 corporation and the authorized insurer; the same method for loss  
486 payment, such as replacement cost or actual cash value, if the  
487 same method is offered both by the corporation and the  
488 authorized insurer in accordance with underwriting rules; and  
489 any other form or coverage that is reasonably comparable as  
490 determined by the board. If an application is submitted to the  
491 corporation for wind-only coverage in the coastal account, the  
492 premium for the corporation's wind-only policy plus the premium  
493 for the ex-wind policy that is offered by an authorized insurer  
494 to the applicant must be compared to the premium for multiperil

495 coverage offered by an authorized insurer, subject to the  
496 standards for comparison specified in this subparagraph. If the  
497 corporation or the applicant requests from the authorized  
498 insurer a breakdown of the premium of the offer by types of  
499 coverage so that a comparison may be made by the corporation or  
500 its agent and the authorized insurer refuses or is unable to  
501 provide such information, the corporation may treat the offer as  
502 not being an offer of coverage from an authorized insurer at the  
503 insurer's approved rate.

504 6. Must include rules for classifications of risks and  
505 rates.

506 7. Must provide that if premium and investment income for  
507 an account attributable to a particular calendar year are in  
508 excess of projected losses and expenses for the account  
509 attributable to that year, such excess shall be held in surplus  
510 in the account. Such surplus must be available to defray  
511 deficits in that account as to future years and used for that  
512 purpose before assessing assessable insurers and assessable  
513 insureds as to any calendar year.

514 8. Must provide objective criteria and procedures to be  
515 uniformly applied to all applicants in determining whether an  
516 individual risk is so hazardous as to be uninsurable. In making  
517 this determination and in establishing the criteria and  
518 procedures, the following must be considered:

519 a. Whether the likelihood of a loss for the individual  
520 risk is substantially higher than for other risks of the same

521 class; and

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

524

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

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

532 10. The policies issued by the corporation must provide  
533 that if the corporation or the market assistance plan obtains an  
534 offer from an authorized insurer to cover the risk at its  
535 approved rates, the risk is no longer eligible for renewal  
536 through the corporation, except as otherwise provided in this  
537 subsection.

538 11. Corporation policies and applications must include a  
539 notice that the corporation policy could, under this section, be  
540 replaced with a policy issued by an authorized insurer which  
541 does not provide coverage identical to the coverage provided by  
542 the corporation. The notice must also specify that acceptance of  
543 corporation coverage creates a conclusive presumption that the  
544 applicant or policyholder is aware of this potential.

545 12. May establish, subject to approval by the office,  
546 different eligibility requirements and operational procedures

547 for any line or type of coverage for any specified county or  
548 area if the board determines that such changes are justified due  
549 to the voluntary market being sufficiently stable and  
550 competitive in such area or for such line or type of coverage  
551 and that consumers who, in good faith, are unable to obtain  
552 insurance through the voluntary market through ordinary methods  
553 continue to have access to coverage from the corporation. If  
554 coverage is sought in connection with a real property transfer,  
555 the requirements and procedures may not provide an effective  
556 date of coverage later than the date of the closing of the  
557 transfer as established by the transferor, the transferee, and,  
558 if applicable, the lender.

559 13. Must provide that, with respect to the coastal  
560 account, any assessable insurer with a surplus as to  
561 policyholders of \$25 million or less writing 25 percent or more  
562 of its total countrywide property insurance premiums in this  
563 state may petition the office, within the first 90 days of each  
564 calendar year, to qualify as a limited apportionment company. A  
565 regular assessment levied by the corporation on a limited  
566 apportionment company for a deficit incurred by the corporation  
567 for the coastal account may be paid to the corporation on a  
568 monthly basis as the assessments are collected by the limited  
569 apportionment company from its insureds, but a limited  
570 apportionment company must begin collecting the regular  
571 assessments not later than 90 days after the regular assessments  
572 are levied by the corporation, and the regular assessments must

573 be paid in full within 15 months after being levied by the  
574 corporation. A limited apportionment company shall collect from  
575 its policyholders any emergency assessment imposed under sub-  
576 subparagraph (b)3.d. The plan must provide that, if the office  
577 determines that any regular assessment will result in an  
578 impairment of the surplus of a limited apportionment company,  
579 the office may direct that all or part of such assessment be  
580 deferred as provided in subparagraph (q)4. However, an emergency  
581 assessment to be collected from policyholders under sub-  
582 subparagraph (b)3.d. may not be limited or deferred.

583 14. Must provide that the corporation appoint as its  
584 licensed agents only those agents who also hold an appointment  
585 as defined in s. 626.015(3) with an insurer who at the time of  
586 the agent's initial appointment by the corporation is authorized  
587 to write and is actually writing personal lines residential  
588 property coverage, commercial residential property coverage, or  
589 commercial nonresidential property coverage within the state.

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

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

597 17. Must provide coverage for manufactured or mobile home  
598 dwellings. Such coverage must also include the following

599 attached structures:

600 a. Screened enclosures that are aluminum framed or  
 601 screened enclosures that are not covered by the same or  
 602 substantially the same materials as those of the primary  
 603 dwelling;

604 b. Carports that are aluminum or carports that are not  
 605 covered by the same or substantially the same materials as those  
 606 of the primary dwelling; and

607 c. Patios that have a roof covering that is constructed of  
 608 materials that are not the same or substantially the same  
 609 materials as those of the primary dwelling.

610  
 611 The corporation shall make available a policy for mobile homes  
 612 or manufactured homes for a minimum insured value of at least  
 613 \$3,000.

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

616 19. May require commercial property to meet specified  
 617 hurricane mitigation construction features as a condition of  
 618 eligibility for coverage.

619 20. Must provide that new or renewal policies issued by  
 620 the corporation on or after January 1, 2012, which cover  
 621 sinkhole loss do not include coverage for any loss to  
 622 appurtenant structures, driveways, sidewalks, decks, or patios  
 623 that are directly or indirectly caused by sinkhole activity. The  
 624 corporation shall exclude such coverage using a notice of



625 coverage change, which may be included with the policy renewal,  
 626 and not by issuance of a notice of nonrenewal of the excluded  
 627 coverage upon renewal of the current policy.

628 21. As of January 1, 2012, must require that the agent  
 629 obtain from an applicant for coverage from the corporation an  
 630 acknowledgment signed by the applicant, which includes, at a  
 631 minimum, the following statement:

632  
 633 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE  
 634 AND ASSESSMENT LIABILITY:  
 635

636 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE  
 637 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A  
 638 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,  
 639 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND  
 640 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE  
 641 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT  
 642 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA  
 643 LEGISLATURE.

644 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER  
 645 SURCHARGE, WHICH COULD BE AS HIGH AS 45 PERCENT OF MY PREMIUM,  
 646 BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO  
 647 BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN  
 648 PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE  
 649 WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES  
 650 ARE REGULATED AND APPROVED BY THE STATE.

HB 1307

2015

651           3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY  
652 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER  
653 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE  
654 FLORIDA LEGISLATURE.

655           4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE  
656 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE  
657 STATE OF FLORIDA.

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

662           b. The signed acknowledgment form creates a conclusive  
663 presumption that the policyholder understood and accepted his or  
664 her potential surcharge and assessment liability as a  
665 policyholder of the corporation.

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