

By the Committee on Banking and Insurance; and Senator Flores

597-02877-16

20161630c1

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 revising provisions related to the corporation's use
11 of certain public and private hurricane loss-
12 projection models in establishing certain rates;
13 revising a provision to permit specified information
14 from certain underwriting and claims files to be made
15 available to certain entities, rather than licensed
16 general lines insurance agents; providing limitations
17 for the use of such information by the entities;
18 requiring the take-out program to be revised for
19 specified purposes by a specified date; requiring the
20 corporation to schedule up to a certain number of
21 cycles annually during which insurers may identify and
22 submit policy take-out requests; specifying
23 information required to be included in such requests;
24 providing conditions that must be agreed to by
25 insurers submitting a request; requiring the
26 corporation to maintain and make available specified
27 lists of insurers to its agents of record; requiring
28 the corporation to provide policyholders and the
29 agents of record with a specified notice regarding
30 their policy renewal options; amending s. 627.3518,
31 F.S.; revising criteria for when an applicant for
32 coverage from the corporation shall be considered a

597-02877-16

20161630c1

33 renewal; providing an effective date.

34
35 Be It Enacted by the Legislature of the State of Florida:

36
37 Section 1. Paragraphs (c), (n), and (x) of subsection (6)
38 of section 627.351, Florida Statutes, are amended, and paragraph
39 (ii) is added to that subsection, to read:

40 627.351 Insurance risk apportionment plans.—

41 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

43 1. Must provide for adoption of residential property and
44 casualty insurance policy forms and commercial residential and
45 nonresidential property insurance forms, which must be approved
46 by the office before use. The corporation shall adopt the
47 following policy forms:

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

52 b. Basic personal lines policy forms that are policies
53 similar to an HO-8 policy or a dwelling fire policy that provide
54 coverage meeting the requirements of the secondary mortgage
55 market, but which is more limited than the coverage under a
56 standard policy.

57 c. Commercial lines residential and nonresidential policy
58 forms that are generally similar to the basic perils of full
59 coverage obtainable for commercial residential structures and
60 commercial nonresidential structures in the admitted voluntary
61 market.

597-02877-16

20161630c1

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

67 e. Commercial lines nonresidential property insurance forms
68 that cover the peril of wind only. The forms are applicable only
69 to nonresidential properties located in areas eligible for
70 coverage under the coastal account referred to in sub-
71 subparagraph (b)2.a.

72 f. The corporation may adopt variations of the policy forms
73 listed in sub-subparagraphs a.-e. which contain more restrictive
74 coverage.

75 g. Effective January 1, 2013, the corporation shall offer a
76 basic personal lines policy similar to an HO-8 policy with
77 dwelling repair based on common construction materials and
78 methods.

79 2. Must provide that the corporation adopt a program in
80 which the corporation and authorized insurers enter into quota
81 share primary insurance agreements for hurricane coverage, as
82 defined in s. 627.4025(2)(a), for eligible risks, and adopt
83 property insurance forms for eligible risks which cover the
84 peril of wind only.

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

86 (I) "Quota share primary insurance" means an arrangement in
87 which the primary hurricane coverage of an eligible risk is
88 provided in specified percentages by the corporation and an
89 authorized insurer. The corporation and authorized insurer are
90 each solely responsible for a specified percentage of hurricane

597-02877-16

20161630c1

91 coverage of an eligible risk as set forth in a quota share
92 primary insurance agreement between the corporation and an
93 authorized insurer and the insurance contract. The
94 responsibility of the corporation or authorized insurer to pay
95 its specified percentage of hurricane losses of an eligible
96 risk, as set forth in the agreement, may not be altered by the
97 inability of the other party to pay its specified percentage of
98 losses. Eligible risks that are provided hurricane coverage
99 through a quota share primary insurance arrangement must be
100 provided policy forms that set forth the obligations of the
101 corporation and authorized insurer under the arrangement,
102 clearly specify the percentages of quota share primary insurance
103 provided by the corporation and authorized insurer, and
104 conspicuously and clearly state that the authorized insurer and
105 the corporation may not be held responsible beyond their
106 specified percentage of coverage of hurricane losses.

107 (II) "Eligible risks" means personal lines residential and
108 commercial lines residential risks that meet the underwriting
109 criteria of the corporation and are located in areas that were
110 eligible for coverage by the Florida Windstorm Underwriting
111 Association on January 1, 2002.

112 b. The corporation may enter into quota share primary
113 insurance agreements with authorized insurers at corporation
114 coverage levels of 90 percent and 50 percent.

115 c. If the corporation determines that additional coverage
116 levels are necessary to maximize participation in quota share
117 primary insurance agreements by authorized insurers, the
118 corporation may establish additional coverage levels. However,
119 the corporation's quota share primary insurance coverage level

597-02877-16

20161630c1

120 may not exceed 90 percent.

121 d. Any quota share primary insurance agreement entered into
122 between an authorized insurer and the corporation must provide
123 for a uniform specified percentage of coverage of hurricane
124 losses, by county or territory as set forth by the corporation
125 board, for all eligible risks of the authorized insurer covered
126 under the agreement.

127 e. Any quota share primary insurance agreement entered into
128 between an authorized insurer and the corporation is subject to
129 review and approval by the office. However, such agreement shall
130 be authorized only as to insurance contracts entered into
131 between an authorized insurer and an insured who is already
132 insured by the corporation for wind coverage.

133 f. For all eligible risks covered under quota share primary
134 insurance agreements, the exposure and coverage levels for both
135 the corporation and authorized insurers shall be reported by the
136 corporation to the Florida Hurricane Catastrophe Fund. For all
137 policies of eligible risks covered under such agreements, the
138 corporation and the authorized insurer must maintain complete
139 and accurate records for the purpose of exposure and loss
140 reimbursement audits as required by fund rules. The corporation
141 and the authorized insurer shall each maintain duplicate copies
142 of policy declaration pages and supporting claims documents.

143 g. The corporation board shall establish in its plan of
144 operation standards for quota share agreements which ensure that
145 there is no discriminatory application among insurers as to the
146 terms of the agreements, pricing of the agreements, incentive
147 provisions if any, and consideration paid for servicing policies
148 or adjusting claims.

597-02877-16

20161630c1

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

162 3. May provide that the corporation may employ or otherwise
163 contract with individuals or other entities to provide
164 administrative or professional services that may be appropriate
165 to effectuate the plan. The corporation may borrow funds by
166 issuing bonds or by incurring other indebtedness, and shall have
167 other powers reasonably necessary to effectuate the requirements
168 of this subsection, including, without limitation, the power to
169 issue bonds and incur other indebtedness in order to refinance
170 outstanding bonds or other indebtedness. The corporation may
171 seek judicial validation of its bonds or other indebtedness
172 under chapter 75. The corporation may issue bonds or incur other
173 indebtedness, or have bonds issued on its behalf by a unit of
174 local government pursuant to subparagraph (q)2. in the absence
175 of a hurricane or other weather-related event, upon a
176 determination by the corporation, subject to approval by the
177 office, that such action would enable it to efficiently meet the

597-02877-16

20161630c1

178 financial obligations of the corporation and that such
179 financings are reasonably necessary to effectuate the
180 requirements of this subsection. The corporation may take all
181 actions needed to facilitate tax-free status for such bonds or
182 indebtedness, including formation of trusts or other affiliated
183 entities. The corporation may pledge assessments, projected
184 recoveries from the Florida Hurricane Catastrophe Fund, other
185 reinsurance recoverables, policyholder surcharges and other
186 surcharges, and other funds available to the corporation as
187 security for bonds or other indebtedness. In recognition of s.
188 10, Art. I of the State Constitution, prohibiting the impairment
189 of obligations of contracts, it is the intent of the Legislature
190 that no action be taken whose purpose is to impair any bond
191 indenture or financing agreement or any revenue source committed
192 by contract to such bond or other indebtedness.

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

202 a. The Governor, the Chief Financial Officer, the President
203 of the Senate, and the Speaker of the House of Representatives
204 shall each appoint two members of the board. At least one of the
205 two members appointed by each appointing officer must have
206 demonstrated expertise in insurance and be deemed to be within

597-02877-16

20161630c1

207 the scope of the exemption provided in s. 112.313(7)(b). The
208 Chief Financial Officer shall designate one of the appointees as
209 chair. All board members serve at the pleasure of the appointing
210 officer. All members of the board are subject to removal at will
211 by the officers who appointed them. All board members, including
212 the chair, must be appointed to serve for 3-year terms beginning
213 annually on a date designated by the plan. However, for the
214 first term beginning on or after July 1, 2009, each appointing
215 officer shall appoint one member of the board for a 2-year term
216 and one member for a 3-year term. A board vacancy shall be
217 filled for the unexpired term by the appointing officer. The
218 Chief Financial Officer shall appoint a technical advisory group
219 to provide information and advice to the board in connection
220 with the board's duties under this subsection. The executive
221 director and senior managers of the corporation shall be engaged
222 by the board and serve at the pleasure of the board. Any
223 executive director appointed on or after July 1, 2006, is
224 subject to confirmation by the Senate. The executive director is
225 responsible for employing other staff as the corporation may
226 require, subject to review and concurrence by the board.

227 b. The board shall create a Market Accountability Advisory
228 Committee to assist the corporation in developing awareness of
229 its rates and its customer and agent service levels in
230 relationship to the voluntary market insurers writing similar
231 coverage.

232 (I) The members of the advisory committee consist of the
233 following 11 persons, one of whom must be elected chair by the
234 members of the committee: four representatives, one appointed by
235 the Florida Association of Insurance Agents, one by the Florida

597-02877-16

20161630c1

236 Association of Insurance and Financial Advisors, one by the
237 Professional Insurance Agents of Florida, and one by the Latin
238 American Association of Insurance Agencies; three
239 representatives appointed by the insurers with the three highest
240 voluntary market share of residential property insurance
241 business in the state; one representative from the Office of
242 Insurance Regulation; one consumer appointed by the board who is
243 insured by the corporation at the time of appointment to the
244 committee; one representative appointed by the Florida
245 Association of Realtors; and one representative appointed by the
246 Florida Bankers Association. All members shall be appointed to
247 3-year terms and may serve for consecutive terms.

248 (II) The committee shall report to the corporation at each
249 board meeting on insurance market issues which may include rates
250 and rate competition with the voluntary market; service,
251 including policy issuance, claims processing, and general
252 responsiveness to policyholders, applicants, and agents; and
253 matters relating to depopulation.

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

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

597-02877-16

20161630c1

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

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

292 (A) Pay to the producing agent of record of the policy for
293 the first year, an amount that is the greater of the insurer's

597-02877-16

20161630c1

294 usual and customary commission for the type of policy written or
295 a fee equal to the usual and customary commission of the
296 corporation; or

297 (B) Offer to allow the producing agent of record of the
298 policy to continue servicing the policy for at least 1 year and
299 offer to pay the agent the greater of the insurer's or the
300 corporation's usual and customary commission for the type of
301 policy written.

302

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

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

310 (A) Pay to the producing agent of record, for the first
311 year, an amount that is the greater of the insurer's usual and
312 customary commission for the type of policy written or a fee
313 equal to the usual and customary commission of the corporation;
314 or

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

319

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

597-02877-16

20161630c1

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

341 (I) If the risk accepts an offer of coverage through the
342 market assistance plan or through a mechanism established by the
343 corporation other than a plan established by s. 627.3518, before
344 a policy is issued to the risk by the corporation or during the
345 first 30 days of coverage by the corporation, and the producing
346 agent who submitted the application to the plan or the
347 corporation is not currently appointed by the insurer, the
348 insurer shall:

349 (A) Pay to the producing agent of record of the policy, for
350 the first year, an amount that is the greater of the insurer's
351 usual and customary commission for the type of policy written or

597-02877-16

20161630c1

352 a fee equal to the usual and customary commission of the
353 corporation; or

354 (B) Offer to allow the producing agent of record of the
355 policy to continue servicing the policy for at least 1 year and
356 offer to pay the agent the greater of the insurer's or the
357 corporation's usual and customary commission for the type of
358 policy written.

359

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

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

367 (A) Pay to the producing agent of record, for the first
368 year, an amount that is the greater of the insurer's usual and
369 customary commission for the type of policy written or a fee
370 equal to the usual and customary commission of the corporation;
371 or

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

376

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

380 c. For purposes of determining comparable coverage under

597-02877-16

20161630c1

381 sub-subparagraphs a. and b., the comparison must be based on
382 those forms and coverages that are reasonably comparable. The
383 corporation may rely on a determination of comparable coverage
384 and premium made by the producing agent who submits the
385 application to the corporation, made in the agent's capacity as
386 the corporation's agent. A comparison may be made solely of the
387 premium with respect to the main building or structure only on
388 the following basis: the same coverage A or other building
389 limits; the same percentage hurricane deductible that applies on
390 an annual basis or that applies to each hurricane for commercial
391 residential property; the same percentage of ordinance and law
392 coverage, if the same limit is offered by both the corporation
393 and the authorized insurer; the same mitigation credits, to the
394 extent the same types of credits are offered both by the
395 corporation and the authorized insurer; the same method for loss
396 payment, such as replacement cost or actual cash value, if the
397 same method is offered both by the corporation and the
398 authorized insurer in accordance with underwriting rules; and
399 any other form or coverage that is reasonably comparable as
400 determined by the board. If an application is submitted to the
401 corporation for wind-only coverage in the coastal account, the
402 premium for the corporation's wind-only policy plus the premium
403 for the ex-wind policy that is offered by an authorized insurer
404 to the applicant must be compared to the premium for multiperil
405 coverage offered by an authorized insurer, subject to the
406 standards for comparison specified in this subparagraph. If the
407 corporation or the applicant requests from the authorized
408 insurer a breakdown of the premium of the offer by types of
409 coverage so that a comparison may be made by the corporation or

597-02877-16

20161630c1

410 its agent and the authorized insurer refuses or is unable to
411 provide such information, the corporation may treat the offer as
412 not being an offer of coverage from an authorized insurer at the
413 insurer's approved rate.

414 6. Must include rules for classifications of risks and
415 rates.

416 7. Must provide that if premium and investment income for
417 an account attributable to a particular calendar year are in
418 excess of projected losses and expenses for the account
419 attributable to that year, such excess shall be held in surplus
420 in the account. Such surplus must be available to defray
421 deficits in that account as to future years and used for that
422 purpose before assessing assessable insurers and assessable
423 insureds as to any calendar year.

424 8. Must provide objective criteria and procedures to be
425 uniformly applied to all applicants in determining whether an
426 individual risk is so hazardous as to be uninsurable. In making
427 this determination and in establishing the criteria and
428 procedures, the following must be considered:

429 a. Whether the likelihood of a loss for the individual risk
430 is substantially higher than for other risks of the same class;
431 and

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

434

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

438 9. Must provide that the corporation make its best efforts

597-02877-16

20161630c1

439 to procure catastrophe reinsurance at reasonable rates, to cover
440 its projected 100-year probable maximum loss as determined by
441 the board of governors.

442 10. The policies issued by the corporation must provide
443 that if the corporation or the market assistance plan obtains an
444 offer from an authorized insurer to cover the risk at its
445 approved rates, the risk is no longer eligible for renewal
446 through the corporation, except as otherwise provided in this
447 subsection.

448 11. Corporation policies and applications must include a
449 notice that the corporation policy could, under this section, be
450 replaced with a policy issued by an authorized insurer which
451 does not provide coverage identical to the coverage provided by
452 the corporation. The notice must also specify that acceptance of
453 corporation coverage creates a conclusive presumption that the
454 applicant or policyholder is aware of this potential.

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

597-02877-16

20161630c1

468 if applicable, the lender.

469 13. Must provide that, with respect to the coastal account,
470 any assessable insurer with a surplus as to policyholders of \$25
471 million or less writing 25 percent or more of its total
472 countrywide property insurance premiums in this state may
473 petition the office, within the first 90 days of each calendar
474 year, to qualify as a limited apportionment company. A regular
475 assessment levied by the corporation on a limited apportionment
476 company for a deficit incurred by the corporation for the
477 coastal account may be paid to the corporation on a monthly
478 basis as the assessments are collected by the limited
479 apportionment company from its insureds, but a limited
480 apportionment company must begin collecting the regular
481 assessments not later than 90 days after the regular assessments
482 are levied by the corporation, and the regular assessments must
483 be paid in full within 15 months after being levied by the
484 corporation. A limited apportionment company shall collect from
485 its policyholders any emergency assessment imposed under sub-
486 subparagraph (b)3.d. The plan must provide that, if the office
487 determines that any regular assessment will result in an
488 impairment of the surplus of a limited apportionment company,
489 the office may direct that all or part of such assessment be
490 deferred as provided in subparagraph (q)4. However, an emergency
491 assessment to be collected from policyholders under sub-
492 subparagraph (b)3.d. may not be limited or deferred.

493 14. Must provide that the corporation appoint as its
494 licensed agents only those agents who throughout such
495 appointments also hold an appointment as defined in s.
496 626.015(3) by ~~with~~ an insurer who ~~at the time of the agent's~~

597-02877-16

20161630c1

497 ~~initial appointment by the corporation~~ is authorized to write
498 and is actually writing or renewing personal lines residential
499 property coverage, commercial residential property coverage, or
500 commercial nonresidential property coverage within the state.

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

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

508 17. Must provide coverage for manufactured or mobile home
509 dwellings. Such coverage must also include the following
510 attached structures:

511 a. Screened enclosures that are aluminum framed or screened
512 enclosures that are not covered by the same or substantially the
513 same materials as those of the primary dwelling;

514 b. Carports that are aluminum or carports that are not
515 covered by the same or substantially the same materials as those
516 of the primary dwelling; and

517 c. Patios that have a roof covering that is constructed of
518 materials that are not the same or substantially the same
519 materials as those of the primary dwelling.

520
521 The corporation shall make available a policy for mobile homes
522 or manufactured homes for a minimum insured value of at least
523 \$3,000.

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

597-02877-16

20161630c1

526 19. May require commercial property to meet specified
527 hurricane mitigation construction features as a condition of
528 eligibility for coverage.

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

538 21. As of January 1, 2012, must require that the agent
539 obtain from an applicant for coverage from the corporation an
540 acknowledgment signed by the applicant, which includes, at a
541 minimum, the following statement:

542 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE

543 AND ASSESSMENT LIABILITY:

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

552 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER
553 SURCHARGE, WHICH COULD BE AS HIGH AS 45 PERCENT OF MY PREMIUM,
554 BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO

597-02877-16

20161630c1

555 BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN
556 PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE
557 WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES
558 ARE REGULATED AND APPROVED BY THE STATE.

559 3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
560 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
561 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
562 FLORIDA LEGISLATURE.

563 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
564 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
565 STATE OF FLORIDA.

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

570 b. The signed acknowledgment form creates a conclusive
571 presumption that the policyholder understood and accepted his or
572 her potential surcharge and assessment liability as a
573 policyholder of the corporation.

574 (n)1. Rates for coverage provided by the corporation must
575 be actuarially sound and subject to s. 627.062, except as
576 otherwise provided in this paragraph. The corporation shall file
577 its recommended rates with the office at least annually. The
578 corporation shall provide any additional information regarding
579 the rates which the office requires. The office shall consider
580 the recommendations of the board and issue a final order
581 establishing the rates for the corporation within 45 days after
582 the recommended rates are filed. The corporation may not pursue
583 an administrative challenge or judicial review of the final

597-02877-16

20161630c1

584 order of the office.

585 2. In addition to the rates otherwise determined pursuant
586 to this paragraph, the corporation shall impose and collect an
587 amount equal to the premium tax provided in s. 624.509 to
588 augment the financial resources of the corporation.

589 3. After the public hurricane loss-projection model under
590 s. 627.06281 has been found to be accurate and reliable by the
591 Florida Commission on Hurricane Loss Projection Methodology, the
592 model shall be considered when establishing ~~serve as the minimum~~
593 ~~benchmark for determining~~ the windstorm portion of the
594 corporation's rates. The corporation may use the public model
595 results in combination with the results of private models to
596 calculate rates for the windstorm portion of the corporation's
597 rates. This subparagraph does not require or allow the
598 corporation to adopt rates lower than the rates otherwise
599 required or allowed by this paragraph.

600 4. The rate filings for the corporation which were approved
601 by the office and took effect January 1, 2007, are rescinded,
602 except for those rates that were lowered. As soon as possible,
603 the corporation shall begin using the lower rates that were in
604 effect on December 31, 2006, and provide refunds to
605 policyholders who paid higher rates as a result of that rate
606 filing. The rates in effect on December 31, 2006, remain in
607 effect for the 2007 and 2008 calendar years except for any rate
608 change that results in a lower rate. The next rate change that
609 may increase rates shall take effect pursuant to a new rate
610 filing recommended by the corporation and established by the
611 office, subject to this paragraph.

612 5. Beginning on July 15, 2009, and annually thereafter, the

597-02877-16

20161630c1

613 corporation must make a recommended actuarially sound rate
614 filing for each personal and commercial line of business it
615 writes, to be effective no earlier than January 1, 2010.

616 6. Beginning on or after January 1, 2010, and
617 notwithstanding the board's recommended rates and the office's
618 final order regarding the corporation's filed rates under
619 subparagraph 1., the corporation shall annually implement a rate
620 increase which, except for sinkhole coverage, does not exceed 10
621 percent for any single policy issued by the corporation,
622 excluding coverage changes and surcharges.

623 7. The corporation may also implement an increase to
624 reflect the effect on the corporation of the cash buildup factor
625 pursuant to s. 215.555(5)(b).

626 8. The corporation's implementation of rates as prescribed
627 in subparagraph 6. shall cease for any line of business written
628 by the corporation upon the corporation's implementation of
629 actuarially sound rates. Thereafter, the corporation shall
630 annually make a recommended actuarially sound rate filing for
631 each commercial and personal line of business the corporation
632 writes.

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

636 a. Underwriting files, except that a policyholder or an
637 applicant shall have access to his or her own underwriting
638 files. Confidential and exempt underwriting file records may
639 also be released to other governmental agencies upon written
640 request and demonstration of need; such records held by the
641 receiving agency remain confidential and exempt as provided

597-02877-16

20161630c1

642 herein.

643 b. Claims files, until termination of all litigation and
644 settlement of all claims arising out of the same incident,
645 although portions of the claims files may remain exempt, as
646 otherwise provided by law. Confidential and exempt claims file
647 records may be released to other governmental agencies upon
648 written request and demonstration of need; such records held by
649 the receiving agency remain confidential and exempt as provided
650 herein.

651 c. Records obtained or generated by an internal auditor
652 pursuant to a routine audit, until the audit is completed, or if
653 the audit is conducted as part of an investigation, until the
654 investigation is closed or ceases to be active. An investigation
655 is considered "active" while the investigation is being
656 conducted with a reasonable, good faith belief that it could
657 lead to the filing of administrative, civil, or criminal
658 proceedings.

659 d. Matters reasonably encompassed in privileged attorney-
660 client communications.

661 e. Proprietary information licensed to the corporation
662 under contract and the contract provides for the confidentiality
663 of such proprietary information.

664 f. All information relating to the medical condition or
665 medical status of a corporation employee which is not relevant
666 to the employee's capacity to perform his or her duties, except
667 as otherwise provided in this paragraph. Information that is
668 exempt shall include, but is not limited to, information
669 relating to workers' compensation, insurance benefits, and
670 retirement or disability benefits.

597-02877-16

20161630c1

671 g. Upon an employee's entrance into the employee assistance
672 program, a program to assist any employee who has a behavioral
673 or medical disorder, substance abuse problem, or emotional
674 difficulty that ~~which~~ affects the employee's job performance,
675 all records relative to that participation shall be confidential
676 and exempt from the provisions of s. 119.07(1) and s. 24(a),
677 Art. I of the State Constitution, except as otherwise provided
678 in s. 112.0455(11).

679 h. Information relating to negotiations for financing,
680 reinsurance, depopulation, or contractual services, until the
681 conclusion of the negotiations.

682 i. Minutes of closed meetings regarding underwriting files,
683 and minutes of closed meetings regarding an open claims file
684 until termination of all litigation and settlement of all claims
685 with regard to that claim, except that information otherwise
686 confidential or exempt by law shall be redacted.

687 2. If an authorized insurer is considering underwriting a
688 risk insured by the corporation, relevant underwriting files and
689 confidential claims files may be released to the insurer
690 provided the insurer agrees in writing, notarized and under
691 oath, to maintain the confidentiality of such files. If a file
692 is transferred to an insurer, that file is no longer a public
693 record because it is not held by an agency subject to the
694 provisions of the public records law. Underwriting files and
695 confidential claims files may also be released to staff and the
696 board of governors of the market assistance plan established
697 pursuant to s. 627.3515, who must retain the confidentiality of
698 such files, except such files may be released to authorized
699 insurers that are considering assuming the risks to which the

597-02877-16

20161630c1

700 files apply, provided the insurer agrees in writing, notarized
701 and under oath, to maintain the confidentiality of such files.
702 Finally, the corporation or the board or staff of the market
703 assistance plan may make the following information obtained from
704 underwriting files and confidential claims files available to an
705 entity that has obtained a permit to become an authorized
706 insurer, a reinsurer that may provide reinsurance under s.
707 624.610, a licensed reinsurance broker, or a modeling company
708 ~~licensed general lines insurance agents~~: name, address, and
709 telephone number of the residential property owner or insured;
710 location of the risk; rating information; loss history; and
711 policy type. The receiving entity ~~licensed general lines~~
712 ~~insurance agent~~ must retain the confidentiality of the
713 information received and may use the information only for the
714 purposes of developing a take-out plan to be submitted to the
715 office for approval or otherwise analyzing the underwriting of a
716 risk or risks insured by the corporation on behalf of the
717 private insurance market.

718 3. A policyholder who has filed suit against the
719 corporation has the right to discover the contents of his or her
720 own claims file to the same extent that discovery of such
721 contents would be available from a private insurer in litigation
722 as provided by the Florida Rules of Civil Procedure, the Florida
723 Evidence Code, and other applicable law. Pursuant to subpoena, a
724 third party has the right to discover the contents of an
725 insured's or applicant's underwriting or claims file to the same
726 extent that discovery of such contents would be available from a
727 private insurer by subpoena as provided by the Florida Rules of
728 Civil Procedure, the Florida Evidence Code, and other applicable

597-02877-16

20161630c1

729 law, and subject to any confidentiality protections requested by
730 the corporation and agreed to by the seeking party or ordered by
731 the court. The corporation may release confidential underwriting
732 and claims file contents and information as it deems necessary
733 and appropriate to underwrite or service insurance policies and
734 claims, subject to any confidentiality protections deemed
735 necessary and appropriate by the corporation.

736 4. Portions of meetings of the corporation are exempt from
737 the provisions of s. 286.011 and s. 24(b), Art. I of the State
738 Constitution wherein confidential underwriting files or
739 confidential open claims files are discussed. All portions of
740 corporation meetings which are closed to the public shall be
741 recorded by a court reporter. The court reporter shall record
742 the times of commencement and termination of the meeting, all
743 discussion and proceedings, the names of all persons present at
744 any time, and the names of all persons speaking. No portion of
745 any closed meeting shall be off the record. Subject to the
746 provisions hereof and s. 119.07(1)(d)-(f), the court reporter's
747 notes of any closed meeting shall be retained by the corporation
748 for a minimum of 5 years. A copy of the transcript, less any
749 exempt matters, of any closed meeting wherein claims are
750 discussed shall become public as to individual claims after
751 settlement of the claim.

752 (ii) The corporation shall revise the programs adopted
753 pursuant to sub-subparagraph (q)3.a. for personal lines
754 residential policies to maximize policyholder options and
755 encourage increased participation by insurers and agents. Such
756 revisions must comply with this paragraph no later than January
757 1, 2017.

597-02877-16

20161630c1

758 1. The corporation must schedule no more than 6 cycles per
759 year during which insurers may identify policies they wish to
760 take out and may submit requests to take out such policies to
761 the corporation in a form and manner prescribed by the
762 corporation. An insurer's take-out request must include a
763 description of the coverages offered and an estimated premium.
764 In submitting any take-out request, an insurer must agree to
765 offer comparable coverage to that offered by the corporation and
766 that the initial premium of the insurer after assumption will
767 not exceed its estimated premium by more than 10 percent,
768 excluding coverage changes, surcharges, and assessments.

769 2. For each policy of the corporation identified under
770 subparagraph 1., the corporation shall maintain and make
771 available to the agent of record a consolidated list of all
772 insurers requesting the policy. The list must contain the
773 information described in subparagraph 1.

774 3. The corporation shall provide written notice to its
775 policyholders and the agents of record informing them of their
776 option to accept one of the take-out offers presented or to
777 remain with the corporation. The notice must be in a format
778 prescribed by the corporation and include the amount of the
779 estimated premium for the coverage of each offering insurer, the
780 amount of the premium for the coverage provided by the
781 corporation, and a description of the coverage offered by each
782 insurer and the coverage provided by the corporation, which
783 includes an explanation of any differences among the coverage
784 offered by each insurer and the coverage provided by the
785 corporation.

786 Section 2. Subsection (5) of section 627.3518, Florida

597-02877-16

20161630c1

787 Statutes, is amended to read:

788 627.3518 Citizens Property Insurance Corporation
789 policyholder eligibility clearinghouse program.—The purpose of
790 this section is to provide a framework for the corporation to
791 implement a clearinghouse program by January 1, 2014.

792 (5) Notwithstanding s. 627.3517, any applicant for new
793 coverage from the corporation is not eligible for coverage from
794 the corporation if provided an offer of coverage from an
795 authorized insurer through the program at a premium that is at
796 or below the eligibility threshold established in s.

797 627.351(6)(c)5.a. Whenever an offer of coverage for a personal
798 lines risk is received for a policyholder of the corporation at
799 renewal from an authorized insurer through the program, if the
800 offer is equal to or less than the corporation's renewal premium
801 for comparable coverage, the risk is not eligible for coverage
802 with the corporation. In the event an offer of coverage for a
803 new applicant is received from an authorized insurer through the
804 program, and the premium offered exceeds the eligibility
805 threshold contained in s. 627.351(6)(c)5.a., the applicant or
806 insured may elect to accept such coverage, or may elect to
807 accept or continue coverage with the corporation. In the event
808 an offer of coverage for a personal lines risk is received from
809 an authorized insurer at renewal through the program, and the
810 premium offered is more than the corporation's renewal premium
811 for comparable coverage, the insured may elect to accept such
812 coverage, or may elect to accept or continue coverage with the
813 corporation. Section 627.351(6)(c)5.a.(I) does not apply to an
814 offer of coverage from an authorized insurer obtained through
815 the program. An applicant for coverage from the corporation who

597-02877-16

20161630c1

816 in the previous 36 months has been assumed through a take-out
817 offer from an insurer or who was declared ineligible for
818 coverage at renewal by the corporation in the previous 36 months
819 due to an offer of coverage pursuant to this subsection shall be
820 considered a renewal under this section if the corporation
821 determines that the same authorized insurer making the offer of
822 coverage ~~pursuant to this subsection~~ continues to insure the
823 applicant and increased the rate on the policy in excess of the
824 increase allowed for the corporation under s. 627.351(6)(n)6.

825 Section 3. This act shall take effect July 1, 2016.