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LEGISLATIVE ACTION

Senate	.	House
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Floor: 1/AD/2R	.	Floor: SENAT/CA
03/08/2016 01:46 PM	.	03/09/2016 03:13 PM
	.	

Senator Flores moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(c) The corporation's plan of operation:

1. Must provide for adoption of residential property and



12 casualty insurance policy forms and commercial residential and
13 nonresidential property insurance forms, which must be approved
14 by the office before use. The corporation shall adopt the
15 following policy forms:

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

20 b. Basic personal lines policy forms that are policies
21 similar to an HO-8 policy or a dwelling fire policy that provide
22 coverage meeting the requirements of the secondary mortgage
23 market, but which is more limited than the coverage under a
24 standard policy.

25 c. Commercial lines residential and nonresidential policy
26 forms that are generally similar to the basic perils of full
27 coverage obtainable for commercial residential structures and
28 commercial nonresidential structures in the admitted voluntary
29 market.

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

35 e. Commercial lines nonresidential property insurance forms
36 that cover the peril of wind only. The forms are applicable only
37 to nonresidential properties located in areas eligible for
38 coverage under the coastal account referred to in sub-
39 subparagraph (b)2.a.

40 f. The corporation may adopt variations of the policy forms



41 listed in sub-subparagraphs a.-e. which contain more restrictive
42 coverage.

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

47 2. Must provide that the corporation adopt a program in
48 which the corporation and authorized insurers enter into quota
49 share primary insurance agreements for hurricane coverage, as
50 defined in s. 627.4025(2)(a), for eligible risks, and adopt
51 property insurance forms for eligible risks which cover the
52 peril of wind only.

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

54 (I) "Quota share primary insurance" means an arrangement in
55 which the primary hurricane coverage of an eligible risk is
56 provided in specified percentages by the corporation and an
57 authorized insurer. The corporation and authorized insurer are
58 each solely responsible for a specified percentage of hurricane
59 coverage of an eligible risk as set forth in a quota share
60 primary insurance agreement between the corporation and an
61 authorized insurer and the insurance contract. The
62 responsibility of the corporation or authorized insurer to pay
63 its specified percentage of hurricane losses of an eligible
64 risk, as set forth in the agreement, may not be altered by the
65 inability of the other party to pay its specified percentage of
66 losses. Eligible risks that are provided hurricane coverage
67 through a quota share primary insurance arrangement must be
68 provided policy forms that set forth the obligations of the
69 corporation and authorized insurer under the arrangement,



70 clearly specify the percentages of quota share primary insurance
71 provided by the corporation and authorized insurer, and
72 conspicuously and clearly state that the authorized insurer and
73 the corporation may not be held responsible beyond their
74 specified percentage of coverage of hurricane losses.

75 (II) "Eligible risks" means personal lines residential and
76 commercial lines residential risks that meet the underwriting
77 criteria of the corporation and are located in areas that were
78 eligible for coverage by the Florida Windstorm Underwriting
79 Association on January 1, 2002.

80 b. The corporation may enter into quota share primary
81 insurance agreements with authorized insurers at corporation
82 coverage levels of 90 percent and 50 percent.

83 c. If the corporation determines that additional coverage
84 levels are necessary to maximize participation in quota share
85 primary insurance agreements by authorized insurers, the
86 corporation may establish additional coverage levels. However,
87 the corporation's quota share primary insurance coverage level
88 may not exceed 90 percent.

89 d. Any quota share primary insurance agreement entered into
90 between an authorized insurer and the corporation must provide
91 for a uniform specified percentage of coverage of hurricane
92 losses, by county or territory as set forth by the corporation
93 board, for all eligible risks of the authorized insurer covered
94 under the agreement.

95 e. Any quota share primary insurance agreement entered into
96 between an authorized insurer and the corporation is subject to
97 review and approval by the office. However, such agreement shall
98 be authorized only as to insurance contracts entered into



375628

99 between an authorized insurer and an insured who is already
100 insured by the corporation for wind coverage.

101 f. For all eligible risks covered under quota share primary
102 insurance agreements, the exposure and coverage levels for both
103 the corporation and authorized insurers shall be reported by the
104 corporation to the Florida Hurricane Catastrophe Fund. For all
105 policies of eligible risks covered under such agreements, the
106 corporation and the authorized insurer must maintain complete
107 and accurate records for the purpose of exposure and loss
108 reimbursement audits as required by fund rules. The corporation
109 and the authorized insurer shall each maintain duplicate copies
110 of policy declaration pages and supporting claims documents.

111 g. The corporation board shall establish in its plan of
112 operation standards for quota share agreements which ensure that
113 there is no discriminatory application among insurers as to the
114 terms of the agreements, pricing of the agreements, incentive
115 provisions if any, and consideration paid for servicing policies
116 or adjusting claims.

117 h. The quota share primary insurance agreement between the
118 corporation and an authorized insurer must set forth the
119 specific terms under which coverage is provided, including, but
120 not limited to, the sale and servicing of policies issued under
121 the agreement by the insurance agent of the authorized insurer
122 producing the business, the reporting of information concerning
123 eligible risks, the payment of premium to the corporation, and
124 arrangements for the adjustment and payment of hurricane claims
125 incurred on eligible risks by the claims adjuster and personnel
126 of the authorized insurer. Entering into a quota sharing
127 insurance agreement between the corporation and an authorized



128 insurer is voluntary and at the discretion of the authorized
129 insurer.

130 3. May provide that the corporation may employ or otherwise
131 contract with individuals or other entities to provide
132 administrative or professional services that may be appropriate
133 to effectuate the plan. The corporation may borrow funds by
134 issuing bonds or by incurring other indebtedness, and shall have
135 other powers reasonably necessary to effectuate the requirements
136 of this subsection, including, without limitation, the power to
137 issue bonds and incur other indebtedness in order to refinance
138 outstanding bonds or other indebtedness. The corporation may
139 seek judicial validation of its bonds or other indebtedness
140 under chapter 75. The corporation may issue bonds or incur other
141 indebtedness, or have bonds issued on its behalf by a unit of
142 local government pursuant to subparagraph (q)2. in the absence
143 of a hurricane or other weather-related event, upon a
144 determination by the corporation, subject to approval by the
145 office, that such action would enable it to efficiently meet the
146 financial obligations of the corporation and that such
147 financings are reasonably necessary to effectuate the
148 requirements of this subsection. The corporation may take all
149 actions needed to facilitate tax-free status for such bonds or
150 indebtedness, including formation of trusts or other affiliated
151 entities. The corporation may pledge assessments, projected
152 recoveries from the Florida Hurricane Catastrophe Fund, other
153 reinsurance recoverables, policyholder surcharges and other
154 surcharges, and other funds available to the corporation as
155 security for bonds or other indebtedness. In recognition of s.
156 10, Art. I of the State Constitution, prohibiting the impairment



375628

157 of obligations of contracts, it is the intent of the Legislature
158 that no action be taken whose purpose is to impair any bond
159 indenture or financing agreement or any revenue source committed
160 by contract to such bond or other indebtedness.

161 4. Must require that the corporation operate subject to the
162 supervision and approval of a board of governors consisting of
163 nine individuals who are residents of this state and who are
164 from different geographical areas of the state, one of whom is
165 appointed by the Governor and serves solely to advocate on
166 behalf of the consumer. The appointment of a consumer
167 representative by the Governor is deemed to be within the scope
168 of the exemption provided in s. 112.313(7) (b) and is in addition
169 to the appointments authorized under sub-subparagraph a.

170 a. The Governor, the Chief Financial Officer, the President
171 of the Senate, and the Speaker of the House of Representatives
172 shall each appoint two members of the board. At least one of the
173 two members appointed by each appointing officer must have
174 demonstrated expertise in insurance and be deemed to be within
175 the scope of the exemption provided in s. 112.313(7) (b). The
176 Chief Financial Officer shall designate one of the appointees as
177 chair. All board members serve at the pleasure of the appointing
178 officer. All members of the board are subject to removal at will
179 by the officers who appointed them. All board members, including
180 the chair, must be appointed to serve for 3-year terms beginning
181 annually on a date designated by the plan. However, for the
182 first term beginning on or after July 1, 2009, each appointing
183 officer shall appoint one member of the board for a 2-year term
184 and one member for a 3-year term. A board vacancy shall be
185 filled for the unexpired term by the appointing officer. The



375628

186 Chief Financial Officer shall appoint a technical advisory group
187 to provide information and advice to the board in connection
188 with the board's duties under this subsection. The executive
189 director and senior managers of the corporation shall be engaged
190 by the board and serve at the pleasure of the board. Any
191 executive director appointed on or after July 1, 2006, is
192 subject to confirmation by the Senate. The executive director is
193 responsible for employing other staff as the corporation may
194 require, subject to review and concurrence by the board.

195 b. The board shall create a Market Accountability Advisory
196 Committee to assist the corporation in developing awareness of
197 its rates and its customer and agent service levels in
198 relationship to the voluntary market insurers writing similar
199 coverage.

200 (I) The members of the advisory committee consist of the
201 following 11 persons, one of whom must be elected chair by the
202 members of the committee: four representatives, one appointed by
203 the Florida Association of Insurance Agents, one by the Florida
204 Association of Insurance and Financial Advisors, one by the
205 Professional Insurance Agents of Florida, and one by the Latin
206 American Association of Insurance Agencies; three
207 representatives appointed by the insurers with the three highest
208 voluntary market share of residential property insurance
209 business in the state; one representative from the Office of
210 Insurance Regulation; one consumer appointed by the board who is
211 insured by the corporation at the time of appointment to the
212 committee; one representative appointed by the Florida
213 Association of Realtors; and one representative appointed by the
214 Florida Bankers Association. All members shall be appointed to



375628

215 3-year terms and may serve for consecutive terms.

216 (II) The committee shall report to the corporation at each
217 board meeting on insurance market issues which may include rates
218 and rate competition with the voluntary market; service,
219 including policy issuance, claims processing, and general
220 responsiveness to policyholders, applicants, and agents; and
221 matters relating to depopulation.

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

224 a. Subject to s. 627.3517, with respect to personal lines
225 residential risks, if the risk is offered coverage from an
226 authorized insurer at the insurer's approved rate under a
227 standard policy including wind coverage or, if consistent with
228 the insurer's underwriting rules as filed with the office, a
229 basic policy including wind coverage, for a new application to
230 the corporation for coverage, the risk is not eligible for any
231 policy issued by the corporation unless the premium for coverage
232 from the authorized insurer is more than 15 percent greater than
233 the premium for comparable coverage from the corporation.
234 Whenever an offer of coverage for a personal lines residential
235 risk is received for a policyholder of the corporation at
236 renewal from an authorized insurer, if the offer is equal to or
237 less than the corporation's renewal premium for comparable
238 coverage, the risk is not eligible for coverage with the
239 corporation. If the risk is not able to obtain such offer, the
240 risk is eligible for a standard policy including wind coverage
241 or a basic policy including wind coverage issued by the
242 corporation; however, if the risk could not be insured under a
243 standard policy including wind coverage regardless of market



375628

244 conditions, the risk is eligible for a basic policy including
245 wind coverage unless rejected under subparagraph 8. However, a
246 policyholder removed from the corporation through an assumption
247 agreement remains eligible for coverage from the corporation
248 until the end of the assumption period. The corporation shall
249 determine the type of policy to be provided on the basis of
250 objective standards specified in the underwriting manual and
251 based on generally accepted underwriting practices.

252 (I) If the risk accepts an offer of coverage through the
253 market assistance plan or through a mechanism established by the
254 corporation other than a plan established by s. 627.3518, before
255 a policy is issued to the risk by the corporation or during the
256 first 30 days of coverage by the corporation, and the producing
257 agent who submitted the application to the plan or to the
258 corporation is not currently appointed by the insurer, the
259 insurer shall:

260 (A) Pay to the producing agent of record of the policy for
261 the first year, an amount that is the greater of the insurer's
262 usual and customary commission for the type of policy written or
263 a fee equal to the usual and customary commission of the
264 corporation; or

265 (B) Offer to allow the producing agent of record of the
266 policy to continue servicing the policy for at least 1 year and
267 offer to pay the agent the greater of the insurer's or the
268 corporation's usual and customary commission for the type of
269 policy written.

270

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



375628

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

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

278 (A) Pay to the producing agent of record, for the first
279 year, an amount that is the greater of the insurer's usual and
280 customary commission for the type of policy written or a fee
281 equal to the usual and customary commission of the corporation;
282 or

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

287
288 If the producing agent is unwilling or unable to accept
289 appointment, the new insurer shall pay the agent in accordance
290 with sub-sub-sub-subparagraph (A).

291 b. With respect to commercial lines residential risks, for
292 a new application to the corporation for coverage, if the risk
293 is offered coverage under a policy including wind coverage from
294 an authorized insurer at its approved rate, the risk is not
295 eligible for a policy issued by the corporation unless the
296 premium for coverage from the authorized insurer is more than 15
297 percent greater than the premium for comparable coverage from
298 the corporation. Whenever an offer of coverage for a commercial
299 lines residential risk is received for a policyholder of the
300 corporation at renewal from an authorized insurer, if the offer
301 is equal to or less than the corporation's renewal premium for



302 comparable coverage, the risk is not eligible for coverage with
303 the corporation. If the risk is not able to obtain any such
304 offer, the risk is eligible for a policy including wind coverage
305 issued by the corporation. However, a policyholder removed from
306 the corporation through an assumption agreement remains eligible
307 for coverage from the corporation until the end of the
308 assumption period.

309 (I) If the risk accepts an offer of coverage through the
310 market assistance plan or through a mechanism established by the
311 corporation other than a plan established by s. 627.3518, before
312 a policy is issued to the risk by the corporation or during the
313 first 30 days of coverage by the corporation, and the producing
314 agent who submitted the application to the plan or the
315 corporation is not currently appointed by the insurer, the
316 insurer shall:

317 (A) Pay to the producing agent of record of the policy, for
318 the first year, an amount that is the greater of the insurer's
319 usual and customary commission for the type of policy written or
320 a fee equal to the usual and customary commission of the
321 corporation; or

322 (B) Offer to allow the producing agent of record of the
323 policy to continue servicing the policy for at least 1 year and
324 offer to pay the agent the greater of the insurer's or the
325 corporation's usual and customary commission for the type of
326 policy written.

327
328 If the producing agent is unwilling or unable to accept
329 appointment, the new insurer shall pay the agent in accordance
330 with sub-sub-sub-subparagraph (A).



375628

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

335 (A) Pay to the producing agent of record, for the first
336 year, an amount that is the greater of the insurer's usual and
337 customary commission for the type of policy written or a fee
338 equal to the usual and customary commission of the corporation;
339 or

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

344
345 If the producing agent is unwilling or unable to accept
346 appointment, the new insurer shall pay the agent in accordance
347 with sub-sub-sub-subparagraph (A).

348 c. For purposes of determining comparable coverage under
349 sub-subparagraphs a. and b., the comparison must be based on
350 those forms and coverages that are reasonably comparable. The
351 corporation may rely on a determination of comparable coverage
352 and premium made by the producing agent who submits the
353 application to the corporation, made in the agent's capacity as
354 the corporation's agent. A comparison may be made solely of the
355 premium with respect to the main building or structure only on
356 the following basis: the same coverage A or other building
357 limits; the same percentage hurricane deductible that applies on
358 an annual basis or that applies to each hurricane for commercial
359 residential property; the same percentage of ordinance and law



360 coverage, if the same limit is offered by both the corporation
361 and the authorized insurer; the same mitigation credits, to the
362 extent the same types of credits are offered both by the
363 corporation and the authorized insurer; the same method for loss
364 payment, such as replacement cost or actual cash value, if the
365 same method is offered both by the corporation and the
366 authorized insurer in accordance with underwriting rules; and
367 any other form or coverage that is reasonably comparable as
368 determined by the board. If an application is submitted to the
369 corporation for wind-only coverage in the coastal account, the
370 premium for the corporation's wind-only policy plus the premium
371 for the ex-wind policy that is offered by an authorized insurer
372 to the applicant must be compared to the premium for multiperil
373 coverage offered by an authorized insurer, subject to the
374 standards for comparison specified in this subparagraph. If the
375 corporation or the applicant requests from the authorized
376 insurer a breakdown of the premium of the offer by types of
377 coverage so that a comparison may be made by the corporation or
378 its agent and the authorized insurer refuses or is unable to
379 provide such information, the corporation may treat the offer as
380 not being an offer of coverage from an authorized insurer at the
381 insurer's approved rate.

382 6. Must include rules for classifications of risks and
383 rates.

384 7. Must provide that if premium and investment income for
385 an account attributable to a particular calendar year are in
386 excess of projected losses and expenses for the account
387 attributable to that year, such excess shall be held in surplus
388 in the account. Such surplus must be available to defray



375628

389 deficits in that account as to future years and used for that
390 purpose before assessing assessable insurers and assessable
391 insureds as to any calendar year.

392 8. Must provide objective criteria and procedures to be
393 uniformly applied to all applicants in determining whether an
394 individual risk is so hazardous as to be uninsurable. In making
395 this determination and in establishing the criteria and
396 procedures, the following must be considered:

397 a. Whether the likelihood of a loss for the individual risk
398 is substantially higher than for other risks of the same class;
399 and

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

402
403 The acceptance or rejection of a risk by the corporation shall
404 be construed as the private placement of insurance, and the
405 provisions of chapter 120 do not apply.

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

410 10. The policies issued by the corporation must provide
411 that if the corporation or the market assistance plan obtains an
412 offer from an authorized insurer to cover the risk at its
413 approved rates, the risk is no longer eligible for renewal
414 through the corporation, except as otherwise provided in this
415 subsection.

416 11. Corporation policies and applications must include a
417 notice that the corporation policy could, under this section, be



418 replaced with a policy issued by an authorized insurer which
419 does not provide coverage identical to the coverage provided by
420 the corporation. The notice must also specify that acceptance of
421 corporation coverage creates a conclusive presumption that the
422 applicant or policyholder is aware of this potential.

423 12. May establish, subject to approval by the office,
424 different eligibility requirements and operational procedures
425 for any line or type of coverage for any specified county or
426 area if the board determines that such changes are justified due
427 to the voluntary market being sufficiently stable and
428 competitive in such area or for such line or type of coverage
429 and that consumers who, in good faith, are unable to obtain
430 insurance through the voluntary market through ordinary methods
431 continue to have access to coverage from the corporation. If
432 coverage is sought in connection with a real property transfer,
433 the requirements and procedures may not provide an effective
434 date of coverage later than the date of the closing of the
435 transfer as established by the transferor, the transferee, and,
436 if applicable, the lender.

437 13. Must provide that, with respect to the coastal account,
438 any assessable insurer with a surplus as to policyholders of \$25
439 million or less writing 25 percent or more of its total
440 countrywide property insurance premiums in this state may
441 petition the office, within the first 90 days of each calendar
442 year, to qualify as a limited apportionment company. A regular
443 assessment levied by the corporation on a limited apportionment
444 company for a deficit incurred by the corporation for the
445 coastal account may be paid to the corporation on a monthly
446 basis as the assessments are collected by the limited



447 apportionment company from its insureds, but a limited
448 apportionment company must begin collecting the regular
449 assessments not later than 90 days after the regular assessments
450 are levied by the corporation, and the regular assessments must
451 be paid in full within 15 months after being levied by the
452 corporation. A limited apportionment company shall collect from
453 its policyholders any emergency assessment imposed under sub-
454 subparagraph (b)3.d. The plan must provide that, if the office
455 determines that any regular assessment will result in an
456 impairment of the surplus of a limited apportionment company,
457 the office may direct that all or part of such assessment be
458 deferred as provided in subparagraph (q)4. However, an emergency
459 assessment to be collected from policyholders under sub-
460 subparagraph (b)3.d. may not be limited or deferred.

461 14. Must provide that the corporation appoint as its
462 licensed agents only those agents who throughout such
463 appointments also hold an appointment as defined in s.
464 626.015(3) by ~~with~~ an insurer who ~~at the time of the agent's~~
465 ~~initial appointment by the corporation~~ is authorized to write
466 and is actually writing or renewing personal lines residential
467 property coverage, commercial residential property coverage, or
468 commercial nonresidential property coverage within the state.

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

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



375628

476 17. Must provide coverage for manufactured or mobile home
477 dwellings. Such coverage must also include the following
478 attached structures:

479 a. Screened enclosures that are aluminum framed or screened
480 enclosures that are not covered by the same or substantially the
481 same materials as those of the primary dwelling;

482 b. Carports that are aluminum or carports that are not
483 covered by the same or substantially the same materials as those
484 of the primary dwelling; and

485 c. Patios that have a roof covering that is constructed of
486 materials that are not the same or substantially the same
487 materials as those of the primary dwelling.

488
489 The corporation shall make available a policy for mobile homes
490 or manufactured homes for a minimum insured value of at least
491 \$3,000.

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

494 19. May require commercial property to meet specified
495 hurricane mitigation construction features as a condition of
496 eligibility for coverage.

497 20. Must provide that new or renewal policies issued by the
498 corporation on or after January 1, 2012, which cover sinkhole
499 loss do not include coverage for any loss to appurtenant
500 structures, driveways, sidewalks, decks, or patios that are
501 directly or indirectly caused by sinkhole activity. The
502 corporation shall exclude such coverage using a notice of
503 coverage change, which may be included with the policy renewal,
504 and not by issuance of a notice of nonrenewal of the excluded



375628

505 coverage upon renewal of the current policy.

506 21. As of January 1, 2012, must require that the agent
507 obtain from an applicant for coverage from the corporation an
508 acknowledgment signed by the applicant, which includes, at a
509 minimum, the following statement:

510 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE

511 AND ASSESSMENT LIABILITY:

512 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
513 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
514 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
515 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
516 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE
517 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT
518 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
519 LEGISLATURE.

520 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER
521 SURCHARGE, WHICH COULD BE AS HIGH AS 45 PERCENT OF MY PREMIUM,
522 BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO
523 BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN
524 PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE
525 WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES
526 ARE REGULATED AND APPROVED BY THE STATE.

527 3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
528 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
529 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
530 FLORIDA LEGISLATURE.

531 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
532 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
533 STATE OF FLORIDA.



375628

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

538 b. The signed acknowledgment form creates a conclusive
539 presumption that the policyholder understood and accepted his or
540 her potential surcharge and assessment liability as a
541 policyholder of the corporation.

542 (n)1. Rates for coverage provided by the corporation must
543 be actuarially sound and subject to s. 627.062, except as
544 otherwise provided in this paragraph. The corporation shall file
545 its recommended rates with the office at least annually. The
546 corporation shall provide any additional information regarding
547 the rates which the office requires. The office shall consider
548 the recommendations of the board and issue a final order
549 establishing the rates for the corporation within 45 days after
550 the recommended rates are filed. The corporation may not pursue
551 an administrative challenge or judicial review of the final
552 order of the office.

553 2. In addition to the rates otherwise determined pursuant
554 to this paragraph, the corporation shall impose and collect an
555 amount equal to the premium tax provided in s. 624.509 to
556 augment the financial resources of the corporation.

557 3. After the public hurricane loss-projection model under
558 s. 627.06281 has been found to be accurate and reliable by the
559 Florida Commission on Hurricane Loss Projection Methodology, the
560 model shall be considered when establishing ~~serve as the minimum~~
561 ~~benchmark for determining~~ the windstorm portion of the
562 corporation's rates. The corporation may use the public model



563 results in combination with the results of private models to
564 calculate rates for the windstorm portion of the corporation's
565 rates. This subparagraph does not require or allow the
566 corporation to adopt rates lower than the rates otherwise
567 required or allowed by this paragraph.

568 4. The rate filings for the corporation which were approved
569 by the office and took effect January 1, 2007, are rescinded,
570 except for those rates that were lowered. As soon as possible,
571 the corporation shall begin using the lower rates that were in
572 effect on December 31, 2006, and provide refunds to
573 policyholders who paid higher rates as a result of that rate
574 filing. The rates in effect on December 31, 2006, remain in
575 effect for the 2007 and 2008 calendar years except for any rate
576 change that results in a lower rate. The next rate change that
577 may increase rates shall take effect pursuant to a new rate
578 filing recommended by the corporation and established by the
579 office, subject to this paragraph.

580 5. Beginning on July 15, 2009, and annually thereafter, the
581 corporation must make a recommended actuarially sound rate
582 filing for each personal and commercial line of business it
583 writes, to be effective no earlier than January 1, 2010.

584 6. Beginning on or after January 1, 2010, and
585 notwithstanding the board's recommended rates and the office's
586 final order regarding the corporation's filed rates under
587 subparagraph 1., the corporation shall annually implement a rate
588 increase which, except for sinkhole coverage, does not exceed 10
589 percent for any single policy issued by the corporation,
590 excluding coverage changes and surcharges.

591 7. The corporation may also implement an increase to



375628

592 reflect the effect on the corporation of the cash buildup factor
593 pursuant to s. 215.555(5) (b) .

594 8. The corporation's implementation of rates as prescribed
595 in subparagraph 6. shall cease for any line of business written
596 by the corporation upon the corporation's implementation of
597 actuarially sound rates. Thereafter, the corporation shall
598 annually make a recommended actuarially sound rate filing for
599 each commercial and personal line of business the corporation
600 writes.

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

604 a. Underwriting files, except that a policyholder or an
605 applicant shall have access to his or her own underwriting
606 files. Confidential and exempt underwriting file records may
607 also be released to other governmental agencies upon written
608 request and demonstration of need; such records held by the
609 receiving agency remain confidential and exempt as provided
610 herein.

611 b. Claims files, until termination of all litigation and
612 settlement of all claims arising out of the same incident,
613 although portions of the claims files may remain exempt, as
614 otherwise provided by law. Confidential and exempt claims file
615 records may be released to other governmental agencies upon
616 written request and demonstration of need; such records held by
617 the receiving agency remain confidential and exempt as provided
618 herein.

619 c. Records obtained or generated by an internal auditor
620 pursuant to a routine audit, until the audit is completed, or if



621 the audit is conducted as part of an investigation, until the
622 investigation is closed or ceases to be active. An investigation
623 is considered "active" while the investigation is being
624 conducted with a reasonable, good faith belief that it could
625 lead to the filing of administrative, civil, or criminal
626 proceedings.

627 d. Matters reasonably encompassed in privileged attorney-
628 client communications.

629 e. Proprietary information licensed to the corporation
630 under contract and the contract provides for the confidentiality
631 of such proprietary information.

632 f. All information relating to the medical condition or
633 medical status of a corporation employee which is not relevant
634 to the employee's capacity to perform his or her duties, except
635 as otherwise provided in this paragraph. Information that is
636 exempt shall include, but is not limited to, information
637 relating to workers' compensation, insurance benefits, and
638 retirement or disability benefits.

639 g. Upon an employee's entrance into the employee assistance
640 program, a program to assist any employee who has a behavioral
641 or medical disorder, substance abuse problem, or emotional
642 difficulty that ~~which~~ affects the employee's job performance,
643 all records relative to that participation shall be confidential
644 and exempt from the provisions of s. 119.07(1) and s. 24(a),
645 Art. I of the State Constitution, except as otherwise provided
646 in s. 112.0455(11).

647 h. Information relating to negotiations for financing,
648 reinsurance, depopulation, or contractual services, until the
649 conclusion of the negotiations.



375628

650 i. Minutes of closed meetings regarding underwriting files,
651 and minutes of closed meetings regarding an open claims file
652 until termination of all litigation and settlement of all claims
653 with regard to that claim, except that information otherwise
654 confidential or exempt by law shall be redacted.

655 2. If an authorized insurer is considering underwriting a
656 risk insured by the corporation, relevant underwriting files and
657 confidential claims files may be released to the insurer
658 provided the insurer agrees in writing, notarized and under
659 oath, to maintain the confidentiality of such files. If a file
660 is transferred to an insurer, that file is no longer a public
661 record because it is not held by an agency subject to the
662 provisions of the public records law. Underwriting files and
663 confidential claims files may also be released to staff and the
664 board of governors of the market assistance plan established
665 pursuant to s. 627.3515, who must retain the confidentiality of
666 such files, except such files may be released to authorized
667 insurers that are considering assuming the risks to which the
668 files apply, provided the insurer agrees in writing, notarized
669 and under oath, to maintain the confidentiality of such files.
670 Finally, the corporation or the board or staff of the market
671 assistance plan may make the following information obtained from
672 underwriting files and confidential claims files available to an
673 entity that has obtained a permit to become an authorized
674 insurer, a reinsurer that may provide reinsurance under s.
675 624.610, a licensed reinsurance broker, a licensed rating
676 organization, a modeling company, or a licensed general lines
677 insurance agent agents: name, address, and telephone number of
678 the residential property owner or insured; location of the risk;



375628

679 rating information; loss history; and policy type. The receiving
680 person licensed general lines insurance agent must retain the
681 confidentiality of the information received and may use the
682 information only for the purposes of developing a take-out plan
683 or a rating plan to be submitted to the office for approval or
684 otherwise analyzing the underwriting of a risk or risks insured
685 by the corporation on behalf of the private insurance market. A
686 licensed general lines insurance agent may not use such
687 information for the direct solicitation of policyholders.

688 3. A policyholder who has filed suit against the
689 corporation has the right to discover the contents of his or her
690 own claims file to the same extent that discovery of such
691 contents would be available from a private insurer in litigation
692 as provided by the Florida Rules of Civil Procedure, the Florida
693 Evidence Code, and other applicable law. Pursuant to subpoena, a
694 third party has the right to discover the contents of an
695 insured's or applicant's underwriting or claims file to the same
696 extent that discovery of such contents would be available from a
697 private insurer by subpoena as provided by the Florida Rules of
698 Civil Procedure, the Florida Evidence Code, and other applicable
699 law, and subject to any confidentiality protections requested by
700 the corporation and agreed to by the seeking party or ordered by
701 the court. The corporation may release confidential underwriting
702 and claims file contents and information as it deems necessary
703 and appropriate to underwrite or service insurance policies and
704 claims, subject to any confidentiality protections deemed
705 necessary and appropriate by the corporation.

706 4. Portions of meetings of the corporation are exempt from
707 the provisions of s. 286.011 and s. 24(b), Art. I of the State



375628

708 Constitution wherein confidential underwriting files or
709 confidential open claims files are discussed. All portions of
710 corporation meetings which are closed to the public shall be
711 recorded by a court reporter. The court reporter shall record
712 the times of commencement and termination of the meeting, all
713 discussion and proceedings, the names of all persons present at
714 any time, and the names of all persons speaking. No portion of
715 any closed meeting shall be off the record. Subject to the
716 provisions hereof and s. 119.07(1)(d)-(f), the court reporter's
717 notes of any closed meeting shall be retained by the corporation
718 for a minimum of 5 years. A copy of the transcript, less any
719 exempt matters, of any closed meeting wherein claims are
720 discussed shall become public as to individual claims after
721 settlement of the claim.

722 (ii) The corporation shall revise the programs adopted
723 pursuant to sub-subparagraph (q)3.a. for personal lines
724 residential policies to maximize policyholder options and
725 encourage increased participation by insurers and agents. After
726 January 1, 2017, a policy may not be taken out of the
727 corporation unless the provisions of this paragraph are met.

728 1. The corporation must publish a periodic schedule of
729 cycles during which an insurer may identify, and notify the
730 corporation of, policies that the insurer is requesting to take
731 out. A request must include a description of the coverage
732 offered and an estimated premium and must be submitted to the
733 corporation in a form and manner prescribed by the corporation.

734 2. The corporation must maintain and make available to the
735 agent of record a consolidated list of all insurers requesting
736 to take out a policy. The list must include a description of the



737 coverage offered and the estimated premium for each take-out
738 request.

739 3. The corporation must provide written notice to the
740 policyholder and the agent of record regarding all insurers
741 requesting to take out the policy and regarding the
742 policyholder's option to accept a take-out offer or to reject
743 all take-out offers and to remain with the corporation. The
744 notice must be in a format prescribed by the corporation and
745 include, for each take-out offer:

- 746 a. The amount of the estimated premium;
- 747 b. A description of the coverage; and
- 748 c. A comparison of the estimated premium and coverage
749 offered by the insurer to the estimated premium and coverage
750 provided by the corporation.

751 4. A policyholder who accepted a take-out offer by an
752 insurer within the previous 36 months is deemed to be a renewal
753 policyholder under s. 627.3518 if the corporation determines
754 that the same take-out insurer increased the rate on the policy
755 in excess of the percent increase allowed for the corporation
756 under subparagraph (n)6. This subparagraph does not apply if the
757 office determines that a take-out insurer that increased its
758 rates in excess of the percent increase allowed under
759 subparagraph (n)6. experienced, or is likely to experience, a 20
760 percent or greater increase in the cost of reinsurance when
761 compared to the cost of reinsurance in the prior year.

762 Section 2. This act shall take effect July 1, 2016.

763
764 ===== T I T L E A M E N D M E N T =====

765 And the title is amended as follows:



766 Delete everything before the enacting clause
767 and insert:

768 A bill to be entitled
769 An act relating to operations of the Citizens Property
770 Insurance Corporation; amending s. 627.351, F.S.;
771 specifying that a consumer representative appointed by
772 the Governor to the Citizens Property Insurance
773 Corporation's board of governors is not prohibited
774 from practicing in a certain profession if required or
775 permitted by law or ordinance; revising the
776 requirements for licensed agents of the corporation;
777 revising provisions related to the corporation's use
778 of certain public and private hurricane loss-
779 projection models in establishing certain rates;
780 revising a provision to permit specified information
781 from certain underwriting and claims files to be made
782 available to certain entities; providing limitations
783 for the use of such information by the entities;
784 requiring the take-out program to be revised for
785 specified purposes by a specified date; requiring the
786 corporation to publish a periodic schedule of cycles
787 during which an insurer may identify and submit policy
788 take-out requests; specifying information required to
789 be included in such requests; requiring the
790 corporation to maintain and make available to the
791 agent of record a specified list; requiring the
792 corporation to provide policyholders and the agents of
793 record with a specified notice regarding take-out
794 offers; providing that a policyholder is deemed to be



375628

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a renewal policyholder under certain circumstances;
providing applicability; providing an effective date.