



1 A bill to be entitled
2 An act relating to the establishment of a
3 clearinghouse program within the Citizens Property
4 Insurance Corporation; amending s. 626.752, F.S.;
5 exempting Citizens Property Insurance Corporation from
6 exchange of business limitations and restrictions when
7 placing business with authorized insurers; amending s.
8 627.351, F.S.; restricting the eligibility of a risk
9 for a renewal policy issued by the corporation under
10 certain circumstances; revising provisions allowing a
11 policyholder removed from the corporation to remain
12 eligible for coverage under certain circumstances;
13 creating s. 627.3518, F.S.; providing purpose;
14 providing definitions; requiring the creation of a
15 clearinghouse program within the corporation;
16 specifying the purposes of the program; requiring the
17 corporation to provide a report to the Legislature;
18 specifying certain rights and responsibilities with
19 respect to the program; authorizing the corporation to
20 take specified actions in establishing the program;
21 providing conditions and requirements relating to the
22 participation of insurers in the program; providing
23 conditions, requirements, limitations, and procedures
24 applicable to offers of coverage with respect to
25 applicants for coverage with the corporation and
26 existing policyholders of the corporation; providing
27 requirements for certain independent insurance agents
28 and exclusive agents with respect to submitting



29 applications for coverage or policies for renewal to
 30 the program; providing for applicability and
 31 construction; providing an effective date.

32
 33 Be It Enacted by the Legislature of the State of Florida:

34
 35 Section 1. Subsection (4) of section 626.752, Florida
 36 Statutes, is amended to read:

37 626.752 Exchange of business.—

38 (4) The foregoing limitations and restrictions shall not
 39 be construed and shall not apply to the placing of surplus lines
 40 business under the provisions of part VIII or to the activities
 41 of Citizens Property Insurance Corporation in placing new and
 42 renewal business with authorized insurers in accordance with s.
 43 627.3518.

44 Section 2. Paragraph (c) of subsection (6) of section
 45 627.351, Florida Statutes, is amended to read:

46 627.351 Insurance risk apportionment plans.—

47 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

49 1. Must provide for adoption of residential property and
 50 casualty insurance policy forms and commercial residential and
 51 nonresidential property insurance forms, which must be approved
 52 by the office before use. The corporation shall adopt the
 53 following policy forms:

54 a. Standard personal lines policy forms that are
 55 comprehensive multiperil policies providing full coverage of a
 56 residential property equivalent to the coverage provided in the



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

58 b. Basic personal lines policy forms that are policies
59 similar to an HO-8 policy or a dwelling fire policy that provide
60 coverage meeting the requirements of the secondary mortgage
61 market, but which is more limited than the coverage under a
62 standard policy.

63 c. Commercial lines residential and nonresidential policy
64 forms that are generally similar to the basic perils of full
65 coverage obtainable for commercial residential structures and
66 commercial nonresidential structures in the admitted voluntary
67 market.

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

73 e. Commercial lines nonresidential property insurance
74 forms that cover the peril of wind only. The forms are
75 applicable only to nonresidential properties located in areas
76 eligible for coverage under the coastal account referred to in
77 sub-subparagraph (b)2.a.

78 f. The corporation may adopt variations of the policy
79 forms listed in sub-subparagraphs a.-e. which contain more
80 restrictive coverage.

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



85 | 2. Must provide that the corporation adopt a program in
86 | which the corporation and authorized insurers enter into quota
87 | share primary insurance agreements for hurricane coverage, as
88 | defined in s. 627.4025(2)(a), for eligible risks, and adopt
89 | property insurance forms for eligible risks which cover the
90 | peril of wind only.

91 | a. As used in this subsection, the term:

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



113 (II) "Eligible risks" means personal lines residential and
114 commercial lines residential risks that meet the underwriting
115 criteria of the corporation and are located in areas that were
116 eligible for coverage by the Florida Windstorm Underwriting
117 Association on January 1, 2002.

118 b. The corporation may enter into quota share primary
119 insurance agreements with authorized insurers at corporation
120 coverage levels of 90 percent and 50 percent.

121 c. If the corporation determines that additional coverage
122 levels are necessary to maximize participation in quota share
123 primary insurance agreements by authorized insurers, the
124 corporation may establish additional coverage levels. However,
125 the corporation's quota share primary insurance coverage level
126 may not exceed 90 percent.

127 d. Any quota share primary insurance agreement entered
128 into between an authorized insurer and the corporation must
129 provide for a uniform specified percentage of coverage of
130 hurricane losses, by county or territory as set forth by the
131 corporation board, for all eligible risks of the authorized
132 insurer covered under the agreement.

133 e. Any quota share primary insurance agreement entered
134 into between an authorized insurer and the corporation is
135 subject to review and approval by the office. However, such
136 agreement shall be authorized only as to insurance contracts
137 entered into between an authorized insurer and an insured who is
138 already insured by the corporation for wind coverage.

139 f. For all eligible risks covered under quota share
140 primary insurance agreements, the exposure and coverage levels



141 | for both the corporation and authorized insurers shall be
142 | reported by the corporation to the Florida Hurricane Catastrophe
143 | Fund. For all policies of eligible risks covered under such
144 | agreements, the corporation and the authorized insurer must
145 | maintain complete and accurate records for the purpose of
146 | exposure and loss reimbursement audits as required by fund
147 | rules. The corporation and the authorized insurer shall each
148 | maintain duplicate copies of policy declaration pages and
149 | supporting claims documents.

150 | g. The corporation board shall establish in its plan of
151 | operation standards for quota share agreements which ensure that
152 | there is no discriminatory application among insurers as to the
153 | terms of the agreements, pricing of the agreements, incentive
154 | provisions if any, and consideration paid for servicing policies
155 | or adjusting claims.

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



169 3.a. May provide that the corporation may employ or
170 otherwise contract with individuals or other entities to provide
171 administrative or professional services that may be appropriate
172 to effectuate the plan. The corporation may borrow funds by
173 issuing bonds or by incurring other indebtedness, and shall have
174 other powers reasonably necessary to effectuate the requirements
175 of this subsection, including, without limitation, the power to
176 issue bonds and incur other indebtedness in order to refinance
177 outstanding bonds or other indebtedness. The corporation may
178 seek judicial validation of its bonds or other indebtedness
179 under chapter 75. The corporation may issue bonds or incur other
180 indebtedness, or have bonds issued on its behalf by a unit of
181 local government pursuant to subparagraph (q)2. in the absence
182 of a hurricane or other weather-related event, upon a
183 determination by the corporation, subject to approval by the
184 office, that such action would enable it to efficiently meet the
185 financial obligations of the corporation and that such
186 financings are reasonably necessary to effectuate the
187 requirements of this subsection. The corporation may take all
188 actions needed to facilitate tax-free status for such bonds or
189 indebtedness, including formation of trusts or other affiliated
190 entities. The corporation may pledge assessments, projected
191 recoveries from the Florida Hurricane Catastrophe Fund, other
192 reinsurance recoverables, policyholder surcharges and other
193 surcharges, and other funds available to the corporation as
194 security for bonds or other indebtedness. In recognition of s.
195 10, Art. I of the State Constitution, prohibiting the impairment
196 of obligations of contracts, it is the intent of the Legislature



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

200 b. To ensure that the corporation is operating in an
201 efficient and economic manner while providing quality service to
202 policyholders, applicants, and agents, the board shall
203 commission an independent third-party consultant having
204 expertise in insurance company management or insurance company
205 management consulting to prepare a report and make
206 recommendations on the relative costs and benefits of
207 outsourcing various policy issuance and service functions to
208 private servicing carriers or entities performing similar
209 functions in the private market for a fee, rather than
210 performing such functions in-house. In making such
211 recommendations, the consultant shall consider how other
212 residual markets, both in this state and around the country,
213 outsource appropriate functions or use servicing carriers to
214 better match expenses with revenues that fluctuate based on a
215 widely varying policy count. The report must be completed by
216 July 1, 2012. Upon receiving the report, the board shall develop
217 a plan to implement the report and submit the plan for review,
218 modification, and approval to the Financial Services Commission.
219 Upon the commission's approval of the plan, the board shall
220 begin implementing the plan by January 1, 2013.

221 4. Must require that the corporation operate subject to
222 the supervision and approval of a board of governors consisting
223 of eight individuals who are residents of this state and⁷ from
224 different geographical areas of this state.



225 | a. The Governor, the Chief Financial Officer, the
226 | President of the Senate, and the Speaker of the House of
227 | Representatives shall each appoint two members of the board. At
228 | least one of the two members appointed by each appointing
229 | officer must have demonstrated expertise in insurance and is
230 | deemed to be within the scope of the exemption provided in s.
231 | 112.313(7)(b). The Chief Financial Officer shall designate one
232 | of the appointees as chair. All board members serve at the
233 | pleasure of the appointing officer. All members of the board are
234 | subject to removal at will by the officers who appointed them.
235 | All board members, including the chair, must be appointed to
236 | serve for 3-year terms beginning annually on a date designated
237 | by the plan. However, for the first term beginning on or after
238 | July 1, 2009, each appointing officer shall appoint one member
239 | of the board for a 2-year term and one member for a 3-year term.
240 | A board vacancy shall be filled for the unexpired term by the
241 | appointing officer. The Chief Financial Officer shall appoint a
242 | technical advisory group to provide information and advice to
243 | the board in connection with the board's duties under this
244 | subsection. The executive director and senior managers of the
245 | corporation shall be engaged by the board and serve at the
246 | pleasure of the board. Any executive director appointed on or
247 | after July 1, 2006, is subject to confirmation by the Senate.
248 | The executive director is responsible for employing other staff
249 | as the corporation may require, subject to review and
250 | concurrence by the board.

251 | b. The board shall create a Market Accountability Advisory
252 | Committee to assist the corporation in developing awareness of



253 | its rates and its customer and agent service levels in
 254 | relationship to the voluntary market insurers writing similar
 255 | coverage.

256 | (I) The members of the advisory committee consist of the
 257 | following 11 persons, one of whom must be elected chair by the
 258 | members of the committee: four representatives, one appointed by
 259 | the Florida Association of Insurance Agents, one by the Florida
 260 | Association of Insurance and Financial Advisors, one by the
 261 | Professional Insurance Agents of Florida, and one by the Latin
 262 | American Association of Insurance Agencies; three
 263 | representatives appointed by the insurers with the three highest
 264 | voluntary market share of residential property insurance
 265 | business in the state; one representative from the Office of
 266 | Insurance Regulation; one consumer appointed by the board who is
 267 | insured by the corporation at the time of appointment to the
 268 | committee; one representative appointed by the Florida
 269 | Association of Realtors; and one representative appointed by the
 270 | Florida Bankers Association. All members shall be appointed to
 271 | 3-year terms and may serve for consecutive terms.

272 | (II) The committee shall report to the corporation at each
 273 | board meeting on insurance market issues which may include rates
 274 | and rate competition with the voluntary market; service,
 275 | including policy issuance, claims processing, and general
 276 | responsiveness to policyholders, applicants, and agents; and
 277 | matters relating to depopulation.

278 | 5. Must provide a procedure for determining the
 279 | eligibility of a risk for coverage, as follows:

280 | a. Subject to s. 627.3517, with respect to personal lines



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281 residential risks, if the risk is offered coverage from an
282 authorized insurer at the insurer's approved rate under a
283 standard policy including wind coverage or, if consistent with
284 the insurer's underwriting rules as filed with the office, a
285 basic policy including wind coverage, for a new application to
286 the corporation for coverage, the risk is not eligible for any
287 policy issued by the corporation unless the premium for coverage
288 from the authorized insurer is more than 15 percent greater than
289 the premium for comparable coverage from the corporation.
290 Whenever an offer of coverage for a personal lines residential
291 risk is received for a policyholder of the corporation at
292 renewal from an authorized insurer, if the offer is equal to or
293 less than the corporation's renewal premium for comparable
294 coverage, the risk is not eligible for coverage with the
295 corporation. If the risk is not able to obtain such offer, the
296 risk is eligible for a standard policy including wind coverage
297 or a basic policy including wind coverage issued by the
298 corporation; however, if the risk could not be insured under a
299 standard policy including wind coverage regardless of market
300 conditions, the risk is eligible for a basic policy including
301 wind coverage unless rejected under subparagraph 8. However, a
302 ~~policyholder of the corporation or~~ a policyholder removed from
303 the corporation through an assumption agreement remains eligible
304 for coverage from the corporation until the end of the
305 assumption period ~~remains eligible for coverage from the~~
306 ~~corporation regardless of any offer of coverage from an~~
307 ~~authorized insurer or surplus lines insurer.~~ The corporation
308 shall determine the type of policy to be provided on the basis



309 of objective standards specified in the underwriting manual and
 310 based on generally accepted underwriting practices.

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

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

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

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

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



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

342 (B) Offer to allow the producing agent of record to
 343 continue servicing the policy for at least 1 year and offer to
 344 pay the agent the greater of the insurer's or the corporation's
 345 usual and customary commission for the type of policy written.
 346

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

350 b. With respect to commercial lines residential risks, for
 351 a new application to the corporation for coverage, if the risk
 352 is offered coverage under a policy including wind coverage from
 353 an authorized insurer at its approved rate, the risk is not
 354 eligible for a policy issued by the corporation unless the
 355 premium for coverage from the authorized insurer is more than 15
 356 percent greater than the premium for comparable coverage from
 357 the corporation. Whenever an offer of coverage for a commercial
 358 lines residential risk is received for a policyholder of the
 359 corporation at renewal from an authorized insurer, if the offer
 360 is equal to or less than the corporation's renewal premium for
 361 comparable coverage, the risk is not eligible for coverage with
 362 the corporation. If the risk is not able to obtain any such
 363 offer, the risk is eligible for a policy including wind coverage
 364 issued by the corporation. However, ~~a policyholder of the~~



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365 ~~corporation or~~ a policyholder removed from the corporation
366 through an assumption agreement remains eligible for coverage
367 from the corporation until the end of the assumption period
368 ~~remains eligible for coverage from the corporation regardless of~~
369 ~~an offer of coverage from an authorized insurer or surplus lines~~
370 ~~insurer.~~

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

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

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

389
390 If the producing agent is unwilling or unable to accept
391 appointment, the new insurer shall pay the agent in accordance
392 with sub-sub-sub-subparagraph (A).



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

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

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

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

410 c. For purposes of determining comparable coverage under
411 sub-subparagraphs a. and b., the comparison must be based on
412 those forms and coverages that are reasonably comparable. The
413 corporation may rely on a determination of comparable coverage
414 and premium made by the producing agent who submits the
415 application to the corporation, made in the agent's capacity as
416 the corporation's agent. A comparison may be made solely of the
417 premium with respect to the main building or structure only on
418 the following basis: the same coverage A or other building
419 limits; the same percentage hurricane deductible that applies on
420 an annual basis or that applies to each hurricane for commercial



421 residential property; the same percentage of ordinance and law
422 coverage, if the same limit is offered by both the corporation
423 and the authorized insurer; the same mitigation credits, to the
424 extent the same types of credits are offered both by the
425 corporation and the authorized insurer; the same method for loss
426 payment, such as replacement cost or actual cash value, if the
427 same method is offered both by the corporation and the
428 authorized insurer in accordance with underwriting rules; and
429 any other form or coverage that is reasonably comparable as
430 determined by the board. If an application is submitted to the
431 corporation for wind-only coverage in the coastal account, the
432 premium for the corporation's wind-only policy plus the premium
433 for the ex-wind policy that is offered by an authorized insurer
434 to the applicant must be compared to the premium for multiperil
435 coverage offered by an authorized insurer, subject to the
436 standards for comparison specified in this subparagraph. If the
437 corporation or the applicant requests from the authorized
438 insurer a breakdown of the premium of the offer by types of
439 coverage so that a comparison may be made by the corporation or
440 its agent and the authorized insurer refuses or is unable to
441 provide such information, the corporation may treat the offer as
442 not being an offer of coverage from an authorized insurer at the
443 insurer's approved rate.

444 6. Must include rules for classifications of risks and
445 rates.

446 7. Must provide that if premium and investment income for
447 an account attributable to a particular calendar year are in
448 excess of projected losses and expenses for the account



449 | attributable to that year, such excess shall be held in surplus
450 | in the account. Such surplus must be available to defray
451 | deficits in that account as to future years and used for that
452 | purpose before assessing assessable insurers and assessable
453 | insureds as to any calendar year.

454 | 8. Must provide objective criteria and procedures to be
455 | uniformly applied to all applicants in determining whether an
456 | individual risk is so hazardous as to be uninsurable. In making
457 | this determination and in establishing the criteria and
458 | procedures, the following must be considered:

459 | a. Whether the likelihood of a loss for the individual
460 | risk is substantially higher than for other risks of the same
461 | class; and

462 | b. Whether the uncertainty associated with the individual
463 | risk is such that an appropriate premium cannot be determined.

464 |

465 | The acceptance or rejection of a risk by the corporation shall
466 | be construed as the private placement of insurance, and the
467 | provisions of chapter 120 do not apply.

468 | 9. Must provide that the corporation make its best efforts
469 | to procure catastrophe reinsurance at reasonable rates, to cover
470 | its projected 100-year probable maximum loss as determined by
471 | the board of governors.

472 | 10. The policies issued by the corporation must provide
473 | that if the corporation or the market assistance plan obtains an
474 | offer from an authorized insurer to cover the risk at its
475 | approved rates, the risk is no longer eligible for renewal
476 | through the corporation, except as otherwise provided in this



477 subsection.

478 11. Corporation policies and applications must include a
479 notice that the corporation policy could, under this section, be
480 replaced with a policy issued by an authorized insurer which
481 does not provide coverage identical to the coverage provided by
482 the corporation. The notice must also specify that acceptance of
483 corporation coverage creates a conclusive presumption that the
484 applicant or policyholder is aware of this potential.

485 12. May establish, subject to approval by the office,
486 different eligibility requirements and operational procedures
487 for any line or type of coverage for any specified county or
488 area if the board determines that such changes are justified due
489 to the voluntary market being sufficiently stable and
490 competitive in such area or for such line or type of coverage
491 and that consumers who, in good faith, are unable to obtain
492 insurance through the voluntary market through ordinary methods
493 continue to have access to coverage from the corporation. If
494 coverage is sought in connection with a real property transfer,
495 the requirements and procedures may not provide an effective
496 date of coverage later than the date of the closing of the
497 transfer as established by the transferor, the transferee, and,
498 if applicable, the lender.

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



505 regular assessment levied by the corporation on a limited
506 apportionment company for a deficit incurred by the corporation
507 for the coastal account may be paid to the corporation on a
508 monthly basis as the assessments are collected by the limited
509 apportionment company from its insureds, but a limited
510 apportionment company must begin collecting the regular
511 assessments not later than 90 days after the regular assessments
512 are levied by the corporation, and the regular assessments must
513 be paid in full within 15 months after being levied by the
514 corporation. A limited apportionment company shall collect from
515 its policyholders any emergency assessment imposed under sub-
516 subparagraph (b)3.d. The plan must provide that, if the office
517 determines that any regular assessment will result in an
518 impairment of the surplus of a limited apportionment company,
519 the office may direct that all or part of such assessment be
520 deferred as provided in subparagraph (q)4. However, an emergency
521 assessment to be collected from policyholders under sub-
522 subparagraph (b)3.d. may not be limited or deferred.

523 14. Must provide that the corporation appoint as its
524 licensed agents only those agents who also hold an appointment
525 as defined in s. 626.015(3) with an insurer who at the time of
526 the agent's initial appointment by the corporation is authorized
527 to write and is actually writing personal lines residential
528 property coverage, commercial residential property coverage, or
529 commercial nonresidential property coverage within the state.

530 15. Must provide a premium payment plan option to its
531 policyholders which, at a minimum, allows for quarterly and
532 semiannual payment of premiums. A monthly payment plan may, but



533 is not required to, be offered.

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

537 17. May provide such limits of coverage as the board
 538 determines, consistent with the requirements of this subsection.

539 18. May require commercial property to meet specified
 540 hurricane mitigation construction features as a condition of
 541 eligibility for coverage.

542 19. Must provide that new or renewal policies issued by
 543 the corporation on or after January 1, 2012, which cover
 544 sinkhole loss do not include coverage for any loss to
 545 appurtenant structures, driveways, sidewalks, decks, or patios
 546 that are directly or indirectly caused by sinkhole activity. The
 547 corporation shall exclude such coverage using a notice of
 548 coverage change, which may be included with the policy renewal,
 549 and not by issuance of a notice of nonrenewal of the excluded
 550 coverage upon renewal of the current policy.

551 20. As of January 1, 2012, must require that the agent
 552 obtain from an applicant for coverage from the corporation an
 553 acknowledgment signed by the applicant, which includes, at a
 554 minimum, the following statement:

555 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE

556 AND ASSESSMENT LIABILITY:

557 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
 558 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
 559 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
 560 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND



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561 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE
562 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT
563 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
564 LEGISLATURE.

565 2. I ALSO UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
566 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
567 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
568 FLORIDA LEGISLATURE.

569 3. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
570 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
571 STATE OF FLORIDA.

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

576 b. The signed acknowledgment form creates a conclusive
577 presumption that the policyholder understood and accepted his or
578 her potential surcharge and assessment liability as a
579 policyholder of the corporation.

580 Section 3. Section 627.3518, Florida Statutes, is created
581 to read:

582 627.3518 Citizens Property Insurance Corporation
583 policyholder eligibility clearinghouse program.—The purpose of
584 this section is to provide a framework for the corporation to
585 implement a clearinghouse program by January 1, 2014.

586 (1) As used in this section, the term:

587 (a) "Corporation" means Citizens Property Insurance
588 Corporation.



589 (b) "Exclusive agent" means any licensed insurance agent
590 that has, by contract, agreed to act exclusively for one company
591 or group of affiliated insurance companies and is disallowed by
592 the provisions of that contract to directly write for any other
593 unaffiliated insurer absent express consent from the company or
594 group of affiliated insurance companies.

595 (c) "Independent agent" means any licensed insurance agent
596 not described in paragraph (b).

597 (d) "Program" means the clearinghouse created under this
598 section.

599 (2) In order to confirm eligibility with the corporation
600 and to enhance access of new applicants for coverage and
601 existing policyholders of the corporation to offers of coverage
602 from authorized and surplus lines insurers, the corporation
603 shall establish a program for personal residential risks in
604 order to facilitate the diversion of ineligible applicants and
605 existing policyholders from the corporation into the voluntary
606 insurance market. The corporation shall also develop appropriate
607 procedures for facilitating the diversion of ineligible
608 applicants and existing policyholders for commercial residential
609 coverage into the private insurance market and shall report such
610 procedures to the President of the Senate and the Speaker of the
611 House of Representatives by January 1, 2014.

612 (3) The corporation board shall establish the
613 clearinghouse program as an organizational unit within the
614 corporation. The program shall have all the rights and
615 responsibilities in carrying out its duties as a licensed
616 general lines agent, but may not be required to employ or engage



617 a licensed general lines agent or to maintain an insurance
618 agency license to carry out its activities in the solicitation
619 and placement of insurance coverage. In establishing the
620 program, the corporation may:

621 (a) Require all new applications, and all policies due for
622 renewal, to be submitted for coverage to the program in order to
623 facilitate obtaining an offer of coverage from an authorized
624 insurer before binding or renewing coverage by the corporation.

625 (b) Employ or otherwise contract with individuals or other
626 entities for appropriate administrative or professional services
627 to effectuate the plan within the corporation in accordance with
628 the applicable purchasing requirements under s. 627.351.

629 (c) Enter into contracts with any authorized or surplus
630 lines insurer to participate in the program and accept an
631 appointment by such insurer.

632 (d) Provide funds to operate the program. Insurers and
633 agents participating in the program are not required to pay a
634 fee to offset or partially offset the cost of the program or use
635 the program for renewal of policies initially written through
636 the clearinghouse.

637 (e) Develop an enhanced application that includes
638 information to assist private insurers in determining whether to
639 make an offer of coverage through the program.

640 (f) For personal lines residential risks, require, before
641 approving all new applications for coverage by the corporation,
642 that every application be subject to a period of 2 business days
643 when any insurer participating in the program may select the
644 application for coverage. The insurer may issue a binder on any



645 policy selected for coverage for a period of at least 30 days
646 but not more than 60 days.

647 (g) Allow surplus lines insurers to participate and make
648 offers of coverage. An offer of coverage may be made by a
649 surplus lines insurer only if an authorized insurer does not
650 make an offer of coverage through the program. Surplus lines
651 insurers may offer premiums and coverages that are more
652 favorable than those offered in the corporation, and agents are
653 not required to compile three declinations from authorized
654 insurers before binding coverage with an surplus lines insurer.

655 (4) Any authorized or surplus lines insurer may
656 participate in the program; however, participation is not
657 mandatory for any insurer. Insurers making offers of coverage to
658 new applicants or renewal policyholders through the program:

659 (a) May not be required to individually appoint any agent
660 whose customer is underwritten and bound through the program.
661 Notwithstanding s. 626.112, insurers are not required to appoint
662 any agent on a policy underwritten through the program for as
663 long as that policy remains with the insurer. Insurers may, at
664 their election, appoint any agent whose customer is initially
665 underwritten and bound through the program. In the event an
666 insurer accepts a policy from an agent who is not appointed
667 pursuant to this paragraph, and thereafter elects to accept a
668 policy from such agent, the provisions of s. 626.112 requiring
669 appointment apply to the agent.

670 (b) Must enter into a limited agency agreement with each
671 agent that is not appointed in accordance with paragraph (a) and
672 whose customer is underwritten and bound through the program.



673 (c) Must enter into its standard agency agreement with
674 each agent whose customer is underwritten and bound through the
675 program when that agent has been appointed by the insurer
676 pursuant to s. 626.112.

677 (d) Must comply with s. 627.4133(2).

678 (e) May participate through their single-designated
679 managing general agent or broker; however, the provisions of
680 paragraph (6)(a) regarding ownership, control, and use of the
681 expirations continue to apply.

682 (f) Must pay to the producing agent a commission equal to
683 that paid by the corporation or the usual and customary
684 commission paid by the insurer for that line of business,
685 whichever is greater.

686 (5) Notwithstanding s. 627.3517, any applicant for new
687 coverage from the corporation is not eligible for coverage from
688 the corporation, if provided an offer of coverage from an
689 authorized insurer through the program at a premium that is at
690 or below the eligibility threshold established in s.
691 627.351(6)(c)5.a. Whenever an offer of coverage for a personal
692 lines risk is received for a policyholder of the corporation at
693 renewal from an authorized insurer through the program, if the
694 offer is equal to or less than the corporation's renewal premium
695 for comparable coverage, the risk is not eligible for coverage
696 with the corporation. In the event an offer of coverage for a
697 new applicant is received from an authorized insurer through the
698 program, and the premium offered exceeds the eligibility
699 threshold contained in s. 627.351(6)(c)5.a., the applicant or
700 insured may elect to accept such coverage, or may elect to



701 accept or continue coverage with the corporation. In the event
 702 an offer of coverage for a personal lines risk is received from
 703 an authorized insurer at renewal through the program, and the
 704 premium offered is more than the corporation's renewal premium
 705 for comparable coverage, the insured may elect to accept such
 706 coverage, or may elect to accept or continue coverage with the
 707 corporation. Any applicant for new coverage from the
 708 corporation, and policyholders of all policies for renewal, if
 709 provided an offer of coverage from a surplus lines insurer
 710 through the program, are not required to accept such offer, and
 711 may be accepted for coverage or renewed by the corporation at
 712 the applicant's or policyholder's option. Sub-sub-subparagraph
 713 627.351(6)(c)5.a.(I) does not apply to an offer of coverage from
 714 an authorized insurer obtained through the program.

715 (6) Independent insurance agents submitting new
 716 applications for coverage or that are the agent of record on a
 717 renewal policy submitted to the program:

718 (a) Are granted and must maintain ownership and the
 719 exclusive use of expirations, records, or other written or
 720 electronic information directly related to such applications or
 721 renewals written through the corporation or through an insurer
 722 participating in the program, notwithstanding s.
 723 627.351(6)(c)5.a.(I)(B) and (II)(B). Such ownership is granted
 724 for as long as the insured remains with the agency or until sold
 725 or surrendered in writing by the agent. Contracts with the
 726 corporation or required by the corporation must not amend,
 727 modify, interfere with, or limit such rights of ownership. Such
 728 expirations, records, or other written or electronic information



729 may be used to review an application, issue a policy, or for any
730 other purpose necessary for placing such business through the
731 program.

732 (b) May not be required to be appointed by any insurer
733 participating in the program for policies written solely through
734 the program, notwithstanding the provisions of s. 626.112.

735 (c) May accept an appointment from any insurer
736 participating in the program.

737 (d) May enter into either a standard or limited agency
738 agreement with the insurer, at the insurer's option.

739
740 Applicants ineligible for coverage in accordance with subsection
741 (5) remain ineligible if their independent agent is unwilling or
742 unable to enter into a standard or limited agency agreement with
743 an insurer participating in the program.

744 (7) Exclusive agents submitting new applications for
745 coverage or that are the agent of record on a renewal policy
746 submitted to the program:

747 (a) Must maintain ownership and the exclusive use of
748 expirations, records, or other written or electronic information
749 directly related to such applications or renewals written
750 through the corporation or through an insurer participating in
751 the program, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and
752 (II)(B). Contracts with the corporation or required by the
753 corporation must not amend, modify, interfere with, or limit
754 such rights of ownership. Such expirations, records, or other
755 written or electronic information may be used to review an
756 application, issue a policy, or for any other purpose necessary



757 for placing such business through the program.

758 (b) May not be required to be appointed by any insurer
759 participating in the program for policies written solely through
760 the program, notwithstanding the provisions of s. 626.112.

761 (c) Must only facilitate the placement of an offer of
762 coverage from an insurer whose limited servicing agreement is
763 approved by that exclusive agent's exclusive insurer.

764 (d) May enter into a limited servicing agreement with the
765 insurer making an offer of coverage, and only after the
766 exclusive agent's insurer has approved the limited servicing
767 agreement terms. The exclusive agent's insurer must approve a
768 limited service agreement for the program for any insurer for
769 which it has approved a service agreement for other purposes.

770
771 Applicants ineligible for coverage in accordance with subsection
772 (5) remain ineligible if their exclusive agent is unwilling or
773 unable to enter into a standard or limited agency agreement with
774 an insurer making an offer of coverage to that applicant.

775 (8) Submission of an application for coverage by the
776 corporation to the program does not constitute the binding of
777 coverage by the corporation, and failure of the program to
778 obtain an offer of coverage by an insurer may not be considered
779 acceptance of coverage of the risk by the corporation.

780 (9) The 45-day notice of nonrenewal requirement set forth
781 in s. 627.4133(2)(b)4.b. applies when a policy is nonrenewed by
782 the corporation because the risk has received an offer of
783 coverage pursuant to this section which renders the risk
784 ineligible for coverage by the corporation.



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785 | (10) The program may not include commercial nonresidential
786 | policies.

787 | Section 4. This act shall take effect July 1, 2013.