

By Senator Brandes

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1 A bill to be entitled
2 An act relating to Citizens Property Insurance
3 Corporation; amending s. 215.555, F.S., relating to
4 the Florida Hurricane Catastrophe Fund; revising the
5 definition of "covered policy"; amending s. 626.752,
6 F.S., relating to the exchange of business between an
7 agent and insurer; applying an exemption from the
8 requirements of that section to the corporation;
9 amending s. 627.351, F.S.; revising requirements
10 relating to quota share primary insurance agreements;
11 requiring the corporation and authorized insurers to
12 enter into excess of loss reinsurance agreements and
13 quota share reinsurance agreements in certain
14 circumstances; authorizing the corporation's board of
15 governors to limit the corporation's participation;
16 deleting and revising related definitions; providing
17 that entering into such agreements is at the
18 discretion of the insurer; providing that if the
19 corporation is the reinsurer, all forms and
20 endorsements must be approved by the Office of
21 Insurance Regulation; prohibiting the corporation from
22 sharing risk for certain damages; requiring the
23 corporation and each insurer to report additional
24 information to the fund and revising the procedures
25 for determining whether a risk is eligible for the
26 corporation; requiring the corporation to implement
27 eligibility procedures and operational requirements
28 for certain purposes which include a clearinghouse for
29 new applications; providing an effective date.

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

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

35 215.555 Florida Hurricane Catastrophe Fund.—

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

37 (c) "Covered policy" means any insurance policy covering
38 residential property in this state, including, but not limited
39 to, a any homeowner's, mobile home owner's, farm owner's,
40 condominium association, condominium unit owner's, tenant's, or
41 apartment building policy, or any other policy covering a
42 residential structure or its contents issued by an any
43 authorized insurer, including a commercial self-insurance fund
44 holding a certificate of authority issued by the Office of
45 Insurance Regulation under s. 624.462, the Citizens Property
46 Insurance Corporation, and any joint underwriting association or
47 similar entity created under law. The term "covered policy"
48 includes any collateral protection insurance policy covering
49 personal residences which protects both the borrower's and the
50 lender's financial interests, in an amount at least equal to the
51 coverage for the dwelling in place under the lapsed homeowner's
52 policy, if such policy can be accurately reported as required
53 under in subsection (5). ~~Additionally,~~ Covered policies also
54 include policies covering the peril of wind removed from ~~the~~
55 ~~Florida Residential Property and Casualty Joint Underwriting~~
56 ~~Association or from the~~ Citizens Property Insurance Corporation,
57 created under s. 627.351(6), ~~or from the Florida Windstorm~~
58 ~~Underwriting Association, created under s. 627.351(2),~~ by an

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59 authorized insurer under the terms and conditions of an executed
60 Citizens Property Insurance Corporation assumption or
61 reinsurance agreement between the authorized insurer and the
62 ~~such association or Citizens Property Insurance~~ corporation.
63 Each assumption or reinsurance agreement between the ~~association~~
64 ~~and such~~ authorized insurer and the ~~or Citizens Property~~
65 ~~Insurance~~ corporation must be approved by the Office of
66 Insurance Regulation before the effective date of the agreement
67 ~~assumption~~, and the office ~~of Insurance Regulation~~ must provide
68 written notification to the board within 15 working days after
69 such approval. The term "covered policy" does not include any
70 policy that excludes wind coverage or hurricane coverage or any
71 reinsurance agreement, other than a Citizens Property Insurance
72 Corporation reinsurance agreement, and does not include any
73 policy otherwise meeting this definition which is issued by a
74 surplus lines insurer or a reinsurer. All commercial residential
75 excess policies and all deductible buy-back policies that, based
76 on sound actuarial principles, require individual ratemaking
77 shall be excluded by rule if the actuarial soundness of the fund
78 is not jeopardized. For this purpose, the term "excess policy"
79 means a policy that provides insurance protection for large
80 commercial property risks and that provides a layer of coverage
81 above a primary layer insured by another insurer.

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

84 626.752 Exchange of business.—

85 (4) The foregoing limitations and restrictions do ~~shall not~~
86 ~~be construed and shall~~ not apply to the placing of surplus lines
87 business under the provisions of part VIII or to Citizens

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88 Property Insurance Corporation acting as an agent to place new
89 and renewal business with authorized insurers in conjunction
90 with efforts to reduce the size of the corporation pursuant to
91 s. 627.351(6).

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

94 627.351 Insurance risk apportionment plans.—

95 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

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

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

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

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

116 d. Personal lines and commercial lines residential property

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

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

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

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

133 2. Must provide that the corporation adopt a program that
134 facilitates the depopulation of residential risks in which the
135 corporation and authorized insurers enter into excess of loss
136 reinsurance agreements, quota share reinsurance agreements, or
137 quota share primary insurance agreements for hurricane coverage,
138 as defined in s. 627.4025(2)(a), for eligible risks, and adopt
139 property insurance forms for eligible risks which cover the
140 peril of wind only. The board of governors may limit the
141 corporation's participation in excess of loss reinsurance
142 agreements, quota share reinsurance agreements, or quota share
143 primary insurance agreements to those participants capable of
144 and willing to assume a minimum of 20 percent of the exposure on
145 the policies subject to such agreement and may specify other

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146 limitations. An agreement in which the corporation retains part
147 of the risk may provide for the decline of the corporation's
148 participation over a period not to exceed 5 years.

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

150 ~~(I) "Quota share primary insurance" means an arrangement in~~
151 ~~which the primary hurricane coverage of an eligible risk is~~
152 ~~provided in specified percentages by the corporation and an~~
153 ~~authorized insurer. The corporation and authorized insurer are~~
154 ~~each solely responsible for a specified percentage of hurricane~~
155 ~~coverage of an eligible risk as set forth in a quota share~~
156 ~~primary insurance agreement between the corporation and an~~
157 ~~authorized insurer and the insurance contract. The~~
158 ~~responsibility of the corporation or authorized insurer to pay~~
159 ~~its specified percentage of hurricane losses of an eligible~~
160 ~~risk, as set forth in the agreement, may not be altered by the~~
161 ~~inability of the other party to pay its specified percentage of~~
162 ~~losses. Eligible risks that are provided hurricane coverage~~
163 ~~through a quota share primary insurance arrangement must be~~
164 ~~provided policy forms that set forth the obligations of the~~
165 ~~corporation and authorized insurer under the arrangement,~~
166 ~~clearly specify the percentages of quota share primary insurance~~
167 ~~provided by the corporation and authorized insurer, and~~
168 ~~conspicuously and clearly state that the authorized insurer and~~
169 ~~the corporation may not be held responsible beyond their~~
170 ~~specified percentage of coverage of hurricane losses.~~

171 ~~(II) "eligible risks" means personal lines residential and~~
172 ~~commercial lines residential risks that are currently insured by~~
173 ~~meet the underwriting criteria of the corporation and have been~~
174 continuously insured by the corporation since on or before July

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175 1, 2013. Effective January 1, 2014, such risks also must have
176 had eligibility verified pursuant to sub-subparagraph 5.d and
177 ~~are located in areas that were eligible for coverage by the~~
178 ~~Florida Windstorm Underwriting Association on January 1, 2002.~~

179 b. Entering into an excess of loss reinsurance agreement,
180 quota share reinsurance agreement, or quota share primary
181 insurance agreement between the corporation and an authorized
182 insurer is voluntary and at the discretion of the authorized
183 insurer.

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

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

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

199 c.e. Any excess of loss reinsurance agreement, quota share
200 reinsurance agreement, or quota share primary insurance
201 agreement entered into between an authorized insurer and the
202 corporation is subject to review and approval by the office.
203 However, such agreement may ~~shall~~ be authorized only for ~~as to~~

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204 ~~insurance contracts entered into between an authorized insurer~~
205 ~~and an insured who is already insured by the corporation for~~
206 ~~wind coverage.~~ If the corporation is the reinsurer, the
207 insurance policy forms and endorsements offered by the
208 authorized insurer must be approved by the office, cover all
209 perils that are the subject of the risk sharing agreement, and
210 cover at least the same limits as the corporation policies being
211 replaced.

212 d. The corporation may not share risk for extra contractual
213 damages at common law or under s. 624.155.

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

225 f. To ensure that exposures are accurately reported to the
226 Florida Hurricane Catastrophe Fund, the corporation and each
227 insurer participating in the reinsurance program shall report
228 its exposure under covered policies to the fund as required
229 under s. 215.555(5)(c). Each report must also specify the
230 percentage of liability applicable to the corporation and the
231 percentage applicable to the insurer with respect to quota share
232 and similar agreements, or the terms of the excess of loss

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233 agreement in the case of such an agreement. Pursuant to its
234 authority under s. 215.555, the State Board of Administration
235 shall adopt rules to administer this sub-subparagraph.

236 ~~g. The corporation board shall establish in its plan of~~
237 ~~operation standards for quota share agreements which ensure that~~
238 ~~there is no discriminatory application among insurers as to the~~
239 ~~terms of the agreements, pricing of the agreements, incentive~~
240 ~~provisions if any, and consideration paid for servicing policies~~
241 ~~or adjusting claims.~~

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

255 ~~3.a.~~ May provide that the corporation may employ or
256 otherwise contract with individuals or other entities to provide
257 administrative or professional services that may be appropriate
258 to effectuate the plan.

259 a. The corporation may borrow funds by issuing bonds or by
260 incurring other indebtedness, and shall have other powers
261 reasonably necessary to effectuate the requirements of this

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262 subsection, including, without limitation, the power to issue
263 bonds and incur other indebtedness in order to refinance
264 outstanding bonds or other indebtedness. The corporation may
265 seek judicial validation of its bonds or other indebtedness
266 under chapter 75. The corporation may issue bonds or incur other
267 indebtedness, or have bonds issued on its behalf by a unit of
268 local government pursuant to subparagraph (q)2. in the absence
269 of a hurricane or other weather-related event, upon a
270 determination by the corporation, subject to approval by the
271 office, that such action would enable it to efficiently meet the
272 financial obligations of the corporation and that such
273 financings are reasonably necessary to effectuate the
274 requirements of this subsection. The corporation may take all
275 actions needed to facilitate tax-free status for such bonds or
276 indebtedness, including formation of trusts or other affiliated
277 entities. The corporation may pledge assessments, projected
278 recoveries from the Florida Hurricane Catastrophe Fund, other
279 reinsurance recoverables, policyholder surcharges and other
280 surcharges, and other funds available to the corporation as
281 security for bonds or other indebtedness. In recognition of s.
282 10, Art. I of the State Constitution, prohibiting the impairment
283 of obligations of contracts, it is the intent of the Legislature
284 that ~~no~~ action may not be taken whose purpose is to impair any
285 bond indenture or financing agreement or any revenue source
286 committed by contract to such bond or other indebtedness.

287 b. To ensure that the corporation is operating in an
288 efficient and economic manner while providing quality service to
289 policyholders, applicants, and agents, the board shall
290 commission an independent third-party consultant having

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291 expertise in insurance company management or insurance company
292 management consulting to prepare a report and make
293 recommendations on the relative costs and benefits of
294 outsourcing various policy issuance and service functions to
295 private servicing carriers or entities performing similar
296 functions in the private market for a fee, rather than
297 performing such functions in-house. In making such
298 recommendations, the consultant shall consider how other
299 residual markets, both in this state and around the country,
300 outsource appropriate functions or use servicing carriers to
301 better match expenses with revenues that fluctuate based on a
302 widely varying policy count. The report must be completed by
303 July 1, 2012. Upon receiving the report, the board shall develop
304 a plan to implement the report and submit the plan for review,
305 modification, and approval to the Financial Services Commission.
306 Upon the commission's approval of the plan, the board shall
307 begin implementing the plan by January 1, 2013.

308 4. Must require that the corporation operate subject to the
309 supervision and approval of a board of governors consisting of
310 eight individuals who are residents of this state and who are
311 from different geographical areas of the ~~this~~ state.

312 a. The Governor, the Chief Financial Officer, the President
313 of the Senate, and the Speaker of the House of Representatives
314 shall each appoint two members of the board. At least one of the
315 two members appointed by each appointing officer must have
316 demonstrated expertise in insurance and be ~~is~~ deemed to be
317 within the scope of the exemption provided under ~~in~~ s.

318 112.313(7)(b). The Chief Financial Officer shall designate one
319 of the appointees as chair. All board members serve at the

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320 pleasure of the appointing officer. All members of the board are
321 subject to removal at will by the officers who appointed them.
322 All board members, including the chair, shall ~~must~~ be appointed
323 ~~to serve~~ for 3-year terms beginning annually on a date
324 designated by the plan. However, for the first term beginning on
325 or after July 1, 2009, each appointing officer shall appoint one
326 member of the board for a 2-year term and one member for a 3-
327 year term. A board vacancy shall be filled for the unexpired
328 term by the appointing officer. The Chief Financial Officer
329 shall appoint a technical advisory group to provide information
330 and advice to the board in connection with the board's duties
331 under this subsection. The executive director and senior
332 managers of the corporation shall be engaged by the board and
333 serve at the pleasure of the board. Any executive director
334 appointed on or after July 1, 2006, is subject to confirmation
335 by the Senate. The executive director is responsible for
336 employing other staff as the corporation may require, subject to
337 review and concurrence by the board.

338 b. The board shall create a Market Accountability Advisory
339 Committee to assist the corporation in developing awareness of
340 its rates and its customer and agent service levels in
341 relationship to the voluntary market insurers writing similar
342 coverage.

343 (I) The members of the advisory committee consist of the
344 following 11 persons, one of whom must be elected chair by the
345 members of the committee: four representatives, one appointed by
346 the Florida Association of Insurance Agents, one by the Florida
347 Association of Insurance and Financial Advisors, one by the
348 Professional Insurance Agents of Florida, and one by the Latin

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349 American Association of Insurance Agencies; three
350 representatives appointed by the insurers with the three highest
351 voluntary market share of residential property insurance
352 business in the state; one representative from the Office of
353 Insurance Regulation; one consumer appointed by the board who is
354 insured by the corporation at the time of appointment to the
355 committee; one representative appointed by the Florida
356 Association of Realtors; and one representative appointed by the
357 Florida Bankers Association. All members shall be appointed to
358 3-year terms and may serve for consecutive terms.

359 (II) The committee shall report to the corporation at each
360 board meeting on insurance market issues that ~~which~~ may include
361 rates and rate competition within ~~with~~ the voluntary market;
362 service, including policy issuance, claims processing, and
363 general responsiveness to policyholders, applicants, and agents;
364 and matters relating to depopulation.

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

367 a. Subject to s. 627.3517, with respect to personal lines
368 residential risks, if the risk is offered new or renewal
369 coverage from an authorized insurer at the insurer's approved
370 rate under a standard policy including wind coverage or, if
371 consistent with the insurer's underwriting rules ~~as~~ filed with
372 the office, a new or renewal basic policy including wind
373 coverage, for a new or renewal application to the corporation
374 for coverage, the risk is not eligible for any new or renewal
375 policy issued by the corporation unless the premium for coverage
376 from the authorized insurer is more than 15 percent greater than
377 the premium for comparable coverage from the corporation. If the

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378 risk is not able to obtain such offer, the risk is eligible for
379 a standard policy including wind coverage or a basic policy
380 including wind coverage issued by the corporation; however, if
381 the risk could not be insured under a standard policy including
382 wind coverage regardless of market conditions, the risk is
383 eligible for a basic policy including wind coverage unless
384 rejected under subparagraph 8. ~~However, a policyholder of the~~
385 ~~corporation or a policyholder removed from the corporation~~
386 ~~through an assumption agreement until the end of the assumption~~
387 ~~period remains eligible for coverage from the corporation~~
388 ~~regardless of any offer of coverage from an authorized insurer~~
389 ~~or surplus lines insurer.~~ The corporation shall determine the
390 type of policy to be provided on the basis of objective
391 standards specified in the underwriting manual and based on
392 generally accepted underwriting practices.

393 (I) If the risk accepts an offer of coverage through the
394 market assistance plan or through a mechanism established by the
395 corporation before a policy is issued to the risk by the
396 corporation or during the first 30 days of coverage by the
397 corporation, and the producing agent who submitted the
398 application to the plan or to the corporation is not currently
399 appointed by the insurer, the insurer shall:

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

405 (B) Offer to allow the producing agent of record ~~of the~~
406 ~~policy~~ to continue servicing the policy for at least 1 year and

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407 offer to pay the agent the greater of the insurer's or the
408 corporation's usual and customary commission for the type of
409 policy written.

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

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

418 (A) Pay to the producing agent of record, for the first
419 year, an amount that is the greater of the insurer's usual and
420 customary commission for the type of policy written or a fee
421 equal to the usual and customary commission of the corporation;
422 or

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

427
428 If the producing agent is unwilling or unable to accept
429 appointment, the new insurer shall pay the agent in accordance
430 with sub-sub-sub-subparagraph (A).

431 b. With respect to commercial lines residential risks, for
432 a new application to the corporation for coverage, if the risk
433 is offered coverage under a policy including wind coverage from
434 an authorized insurer at its approved rate, the risk is not
435 eligible for a policy issued by the corporation unless the

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436 premium for coverage from the authorized insurer is more than 15
437 percent greater than the premium for comparable coverage from
438 the corporation. If the risk is not able to obtain ~~any~~ such
439 offer, the risk is eligible for a policy including wind coverage
440 issued by the corporation. However, a policyholder of the
441 corporation or a policyholder removed from the corporation
442 through an assumption agreement until the end of the assumption
443 period remains eligible for coverage from the corporation
444 regardless of an offer of coverage from an authorized insurer or
445 surplus lines insurer.

446 (I) If the risk accepts an offer of coverage through the
447 market assistance plan or through a mechanism established by the
448 corporation before a policy is issued to the risk by the
449 corporation or during the first 30 days of coverage by the
450 corporation, and the producing agent who submitted the
451 application to the plan or the corporation is not currently
452 appointed by the insurer, the insurer shall:

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

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

463

464 If the producing agent is unwilling or unable to accept

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465 appointment, the new insurer shall pay the agent in accordance
466 with sub-sub-sub-subparagraph (A).

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

471 (A) Pay to the producing agent of record, for the first
472 year, an amount that is the greater of the insurer's usual and
473 customary commission for the type of policy written or a fee
474 equal to the usual and customary commission of the corporation;
475 or

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

480
481 If the producing agent is unwilling or unable to accept
482 appointment, the new insurer shall pay the agent in accordance
483 with sub-sub-sub-subparagraph (A).

484 c. For purposes of determining comparable coverage under
485 sub-subparagraphs a. and b., the comparison must be based on
486 those forms and coverages that are reasonably comparable. The
487 corporation may rely on a determination of comparable coverage
488 and premium made by the producing agent who submits the
489 application to the corporation, made in the agent's capacity as
490 the corporation's agent. A comparison may be made ~~solely~~ of the
491 premium with respect to the main building or structure only on
492 the following basis: the same coverage A or other building
493 limits; the same percentage hurricane deductible that applies on

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494 an annual basis or that applies to each hurricane for commercial
495 residential property; the same percentage of ordinance and law
496 coverage, if the same limit is offered by both the corporation
497 and the authorized insurer; the same mitigation credits, to the
498 extent the same types of credits are offered both by the
499 corporation and the authorized insurer; the same method for loss
500 payment, such as replacement cost or actual cash value, if the
501 same method is offered both by the corporation and the
502 authorized insurer in accordance with underwriting rules; and
503 any other form or coverage that is reasonably comparable as
504 determined by the board. If an application is submitted to the
505 corporation for wind-only coverage in the coastal account, the
506 premium for the corporation's wind-only policy plus the premium
507 for the ex-wind policy that is offered by an authorized insurer
508 to the applicant must be compared to the premium for multiperil
509 coverage offered by an authorized insurer, subject to the
510 standards for comparison specified in this subparagraph. If the
511 corporation or the applicant requests from the authorized
512 insurer a breakdown of the premium of the offer by types of
513 coverage so that a comparison may be made by the corporation or
514 its agent and the authorized insurer refuses or is unable to
515 provide such information, the corporation may treat the offer as
516 not being an offer of coverage from an authorized insurer at the
517 insurer's approved rate.

518 d. Effective January 1, 2014, the corporation shall
519 implement appropriate eligibility procedures and operational
520 requirements to ensure that only risks that are eligible for
521 coverage from the corporation receive such coverage. The
522 procedures and requirements so implemented must, at a minimum,

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523 include the use of a clearinghouse for new applications which
524 allows licensed insurers and agents to voluntarily write risks
525 that have made application for coverage to the corporation and a
526 mechanism to make renewal offers for existing policies available
527 to licensed insurers and agents to voluntarily write risks
528 insured by the corporation. Any risk insured by the corporation
529 for 3 or more consecutive years may not be renewed and must
530 submit a new application for coverage. The corporation may
531 create an appropriate agency or agent mechanism to place new and
532 renewal business with authorized insurers. Compliance with these
533 eligibility procedures and operational requirements is a
534 condition of coverage by the corporation.

535 6. Must include rules for classifications of risks and
536 rates.

537 7. Must provide that if premium and investment income for
538 an account attributable to a particular calendar year are in
539 excess of projected losses and expenses for the account
540 attributable to that year, such excess ~~shall~~ be held in surplus
541 in the account. Such surplus must be available to defray
542 deficits in that account as to future years and used for that
543 purpose before assessing assessable insurers and assessable
544 insureds as to any calendar year.

545 8. Must provide objective criteria and procedures to be
546 uniformly applied to all applicants in determining whether an
547 individual risk is so hazardous as to be uninsurable. In making
548 this determination and in establishing the criteria and
549 procedures, the following must be considered:

550 a. Whether the likelihood of a loss for the individual risk
551 is substantially higher than for other risks of the same class;

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552 and

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

555
556 The acceptance or rejection of a risk by the corporation shall
557 be construed as the private placement of insurance, and the
558 provisions of chapter 120 do not apply.

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

563 10. Must provide that the policies issued by the
564 corporation ~~must~~ provide that if the corporation or the market
565 assistance plan obtains an offer from an authorized insurer to
566 cover the risk at its approved rates, the risk is no longer
567 eligible for renewal through the corporation, except as
568 otherwise provided in this subsection.

569 11. Must provide that corporation policies and applications
570 ~~must~~ include a notice that the corporation policy could, under
571 this section, be replaced with a policy issued by an authorized
572 insurer which does not provide coverage identical to the
573 coverage provided by the corporation. The notice must also
574 specify that acceptance of corporation coverage creates a
575 conclusive presumption that the applicant or policyholder is
576 aware of this potential.

577 12. May establish, subject to approval by the office,
578 different eligibility requirements and operational procedures
579 for any line or type of coverage for any specified county or
580 area if the board determines that such changes are justified due

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581 to the voluntary market being sufficiently stable and
582 competitive in such area or for such line or type of coverage
583 and that consumers who, in good faith, are unable to obtain
584 insurance through the voluntary market through ordinary methods
585 continue to have access to coverage from the corporation. If
586 coverage is sought in connection with a real property transfer,
587 the requirements and procedures may not provide an effective
588 date of coverage later than the date of the closing of the
589 transfer as established by the transferor, the transferee, and,
590 if applicable, the lender.

591 13. Must provide that, with respect to the coastal account,
592 any assessable insurer that has ~~with~~ a surplus as to
593 policyholders of \$25 million or less writing 25 percent or more
594 of its total countrywide property insurance premiums in this
595 state may petition the office, within the first 90 days of each
596 calendar year, to qualify as a limited apportionment company. A
597 regular assessment levied by the corporation on a limited
598 apportionment company for a deficit incurred by the corporation
599 for the coastal account may be paid to the corporation on a
600 monthly basis as the assessments are collected by the limited
601 apportionment company from its insureds. The, ~~but~~ a limited
602 apportionment company must begin collecting the regular
603 assessments within ~~not later than~~ 90 days after the regular
604 assessments are levied by the corporation, and the regular
605 assessments must be paid in full within 15 months after being
606 levied by the corporation. A limited apportionment company shall
607 collect from its policyholders any emergency assessment imposed
608 under sub-subparagraph (b)3.d. The plan must provide that, if
609 the office determines that any regular assessment will result in

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610 an impairment of the surplus of a limited apportionment company,
611 the office may direct that all or part of such assessment be
612 deferred as provided in subparagraph (q)4. However, an emergency
613 assessment to be collected from policyholders under sub-
614 subparagraph (b)3.d. may not be limited or deferred.

615 14. Must provide that the corporation appoint as its
616 licensed agents only those agents who also hold an appointment
617 as defined in s. 626.015(3) with an insurer who at the time of
618 the agent's initial appointment by the corporation is authorized
619 to write and is actually writing personal lines residential
620 property coverage, commercial residential property coverage, or
621 commercial nonresidential property coverage within the state.

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

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

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

631 18. May require commercial property to meet specified
632 hurricane mitigation construction features as a condition of
633 eligibility for coverage.

634 19. Must provide that new or renewal policies issued by the
635 corporation on or after January 1, 2012, which cover sinkhole
636 loss do not include coverage for any loss to appurtenant
637 structures, driveways, sidewalks, decks, or patios that are
638 directly or indirectly caused by sinkhole activity. The

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639 corporation shall exclude such coverage using a notice of
640 coverage change, which may be included with the policy renewal,
641 and not by issuance of a notice of nonrenewal of the excluded
642 coverage upon renewal of the current policy.

643 20. As of January 1, 2012, must require that the agent
644 obtain from an applicant for coverage from the corporation an
645 acknowledgment signed by the applicant, which includes, at a
646 minimum, the following statement:

647
648 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE
649 AND ASSESSMENT LIABILITY:

650
651 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
652 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
653 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
654 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
655 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE
656 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT
657 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
658 LEGISLATURE.

659 2. I ALSO UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
660 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
661 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
662 FLORIDA LEGISLATURE.

663 3. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
664 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
665 STATE OF FLORIDA.

666 a. The corporation shall maintain, in electronic format or
667 otherwise, a copy of the applicant's signed acknowledgment and

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668 provide a copy of the statement to the policyholder as part of
669 the first renewal after the effective date of this subparagraph.

670 b. The signed acknowledgment form creates a conclusive
671 presumption that the policyholder understood and accepted his or
672 her potential surcharge and assessment liability as a
673 policyholder of the corporation.

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