LEGISLATIVE ACTION

Senator Boyd moved the following:

*Senate Amendment to House Amendment (334081) (with title amendment)*

Delete lines 71 - 1170

and insert:

Section 2. Subsection (11) of section 624.424, Florida Statutes, is renumbered as subsection (12), and a new subsection (11) and subsection (13) are added to that section, to read:

624.424 Annual statement and other information.—

(11) Beginning January 1, 2022, each authorized insurer or insurer group issuing personal lines or commercial lines
residential property insurance policies in this state shall file with the office on an annual basis in conjunction with the statements required by paragraph (1)(a) a supplemental report on an individual and group basis for closed claims. The report must be on a form prescribed by the commission and must include the following information for each claim closed, excluding liability only claims, within the reporting period in this state:

(a) The unique claim identification number.
(b) The type of policy.
(c) The zip code of the property where the claim occurred.
(d) The county where the claim occurred.
(e) The date of loss.
(f) The peril or type of loss, including information about:
1. The types of vendors used for mitigation, repair, or replacement; and
2. The names of vendors used, if known.
(g) The date the claim was reported to insurer.
(h) The initial date the claim was closed, including information about whether the claim was closed with or without payment.
(i) The date the claim was most recently reopened, if applicable.
(j) The date a supplemental claim was filed, if applicable.
(k) The date the claim was most recently closed, if different from the initial date the claim was closed.
(l) The name of the public adjuster on the claim, if any.
(m) The Florida Bar number and name of the attorney for the claimant, if any.
(n) The total indemnity paid by the insurer.
(o) The total loss adjustment expenses paid by the insurer.
(p) The amount paid for claimant’s attorney fees, if any.
(q) The amount paid in costs for claimant’s attorney’s expenses, including, but not limited to, expert witness fees.
(r) The contingency risk multiplier, if any, that the claimant’s attorney requested to be applied in calculating the attorney fees awarded to the claimant’s attorney.
(s) The contingency risk multiplier, if any, that a court applied in calculating the attorney fees awarded to the claimant’s attorney.
(t) Any other information deemed necessary by the commission to provide the office with the ability to track litigation and claims trends occurring in the property market.

(13) Each insurer doing business in this state which pays a fee, commission, or other financial consideration or payment to any affiliate directly or indirectly is required upon request to provide to the office any information the office deems necessary. The fee, commission, or other financial consideration or payment to any affiliate must be fair and reasonable. In determining whether the fee, commission, or other financial consideration or payment is fair and reasonable, the office shall consider, among other things, the actual cost of the service being provided.

Section 3. Subsection (6) of section 626.7451, Florida Statutes, is amended to read:

626.7451 Managing general agents; required contract provisions.—No person acting in the capacity of a managing general agent shall place business with an insurer unless there is in force a written contract between the parties which sets
forth the responsibility for a particular function, specifies the division of responsibilities, and contains the following minimum provisions:

(6) The contract shall specify appropriate underwriting guidelines, including:

(a) The maximum annual premium volume.
(b) The basis of the rates to be charged.
(c) The types of risks which may be written.
(d) Maximum limits of liability.
(e) Applicable exclusions.
(f) Territorial limitations.
(g) Policy cancellation provisions.
(h) The maximum policy period.

This subsection shall not apply when the managing general agent is a controlled or controlling person.

For the purposes of this section and ss. 626.7453 and 626.7454, the term “controlling person” or “controlling” has the meaning set forth in s. 625.012(5)(b)1., and the term “controlled person” or “controlled” has the meaning set forth in s. 625.012(5)(b)2.

Section 4. Section 626.7452, Florida Statutes, is amended to read:

626.7452 Managing general agents; examination authority.—The acts of the managing general agent are considered to be the acts of the insurer on whose behalf it is acting. A managing general agent may be examined as if it were the insurer except in the case where the managing general agent solely represents a
Section 5. Subsection (15) of section 626.854, Florida Statutes, is amended, and subsection (20) is added to that section, to read:

626.854 “Public adjuster” defined; prohibitions.—The legislature finds that it is necessary for the protection of the public to regulate public insurance adjusters and to prevent the unauthorized practice of law.

(15) A licensed contractor under part I of chapter 489, or a subcontractor of such licensee, may not advertise, solicit, offer to handle, handle, or perform public adjuster services as provided in subsection (1) adjust a claim on behalf of an insured unless licensed and compliant as a public adjuster under this chapter. The prohibition against solicitation does not preclude a contractor from suggesting or otherwise recommending to a consumer that the consumer consider contacting his or her insurer to determine if the proposed repair is covered under the consumer’s insurance policy, except as it relates to solicitation prohibited in s. 489.147. In addition however, the contractor may discuss or explain a bid for construction or repair of covered property with the residential property owner who has suffered loss or damage covered by a property insurance policy, or the insurer of such property, if the contractor is doing so for the usual and customary fees applicable to the work to be performed as stated in the contract between the contractor and the insured.

(20)(a) Any following act by a public adjuster, a public adjuster apprentice, or a person acting on behalf of a public adjuster or public adjuster apprentice is prohibited and shall
result in discipline as applicable under part VI of this chapter:

1. Offering to a residential property owner a rebate, gift, gift card, cash, coupon, waiver of any insurance deductible, or any other thing of value in exchange for:
   a. Allowing a contractor, a public adjuster, a public adjuster apprentice, or a person acting on behalf of a public adjuster or public adjuster apprentice to conduct an inspection of the residential property owner’s roof; or
   b. Making an insurance claim for damage to the residential property owner’s roof.

2. Offering, delivering, receiving, or accepting any compensation, inducement, or reward for the referral of any services for which property insurance proceeds would be used for roofing repairs or replacement.

(b) Notwithstanding the fine set forth in s. 626.8698, a public adjuster or public adjuster apprentice may be subject to a fine not to exceed $10,000 per act for a violation of this subsection.

(c) A person who engages in an act prohibited by this subsection and who is not a public adjuster or a public adjuster apprentice, or is not otherwise exempt from licensure, is guilty of the unlicensed practice of public adjusting and may be:

1. Subject to all applicable penalties set forth in part VI of this chapter.

2. Notwithstanding subparagraph 1., subject to a fine not to exceed $10,000 per act for a violation of this subsection.

Section 6. Subsection (1) of section 626.9373, Florida Statutes, is amended to read:
157 626.9373 Attorney’s fees.—
158 (1) Upon the rendition of a judgment or decree by any court
159 of this state against a surplus lines insurer in favor of any
160 named or omnibus insured or the named beneficiary under a policy
161 or contract executed by the insurer on or after the effective
162 date of this act, the trial court or, if the insured or
163 beneficiary prevails on appeal, the appellate court, shall
164 adjudge or decree against the insurer in favor of the insured or
165 beneficiary a reasonable sum as fees or compensation for the
166 insured’s or beneficiary’s attorney prosecuting the lawsuit for
167 which recovery is awarded. **In a suit arising under a residential**
168 or commercial property insurance policy not brought by an
169 assignee, the amount of reasonable attorney fees shall be
170 awarded to an insured only as provided in s. 57.105 or s.
171 627.70152, as applicable.
172
173 Section 7. Paragraphs (c) and (n) of subsection (6) of
174 section 627.351, Florida Statutes, are amended, and paragraph
175 (jj) is added to subsection (6) of that section, to read:
176 627.351 Insurance risk apportionment plans.—
177 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—
178 (c) The corporation’s plan of operation:
179 1. Must provide for adoption of residential property and
180 casualty insurance policy forms and commercial residential and
181 nonresidential property insurance forms, which must be approved
182 by the office before use. The corporation shall adopt the
183 following policy forms:
184 a. Standard personal lines policy forms that are
185 comprehensive multiperil policies providing full coverage of a
186 residential property equivalent to the coverage provided in the
private insurance market under an HO-3, HO-4, or HO-6 policy.

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

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

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

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

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

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

2. Must provide that the corporation adopt a program in
which the corporation and authorized insurers enter into quota
share primary insurance agreements for hurricane coverage, as
defined in s. 627.4025(2)(a), for eligible risks, and adopt
property insurance forms for eligible risks which cover the
peril of wind only.
   a. As used in this subsection, the term:
      (I) “Quota share primary insurance” means an arrangement in
which the primary hurricane coverage of an eligible risk is
provided in specified percentages by the corporation and an
authorized insurer. The corporation and authorized insurer are
each solely responsible for a specified percentage of hurricane
coverage of an eligible risk as set forth in a quota share
primary insurance agreement between the corporation and an
authorized insurer and the insurance contract. The
responsibility of the corporation or authorized insurer to pay
its specified percentage of hurricane losses of an eligible
risk, as set forth in the agreement, may not be altered by the
inability of the other party to pay its specified percentage of
losses. Eligible risks that are provided hurricane coverage
through a quota share primary insurance arrangement must be
provided policy forms that set forth the obligations of the
corporation and authorized insurer under the arrangement,
clearly specify the percentages of quota share primary insurance
provided by the corporation and authorized insurer, and
conspicuously and clearly state that the authorized insurer and
the corporation may not be held responsible beyond their
specified percentage of coverage of hurricane losses.
      (II) “Eligible risks” means personal lines residential and
commercial lines residential risks that meet the underwriting
criteria of the corporation and are located in areas that were
eligible for coverage by the Florida Windstorm Underwriting
Association on January 1, 2002.

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

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

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

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

f. For all eligible risks covered under quota share primary
insurance agreements, the exposure and coverage levels for both
the corporation and authorized insurers shall be reported by the
corporation to the Florida Hurricane Catastrophe Fund. For all
policies of eligible risks covered under such agreements, the
corporation and the authorized insurer must maintain complete
and accurate records for the purpose of exposure and loss
reimbursement audits as required by fund rules. The corporation
and the authorized insurer shall each maintain duplicate copies
of policy declaration pages and supporting claims documents.
g. The corporation board shall establish in its plan of
operation standards for quota share agreements which ensure that
there is no discriminatory application among insurers as to the
terms of the agreements, pricing of the agreements, incentive
provisions if any, and consideration paid for servicing policies
or adjusting claims.
h. The quota share primary insurance agreement between the
corporation and an authorized insurer must set forth the
specific terms under which coverage is provided, including, but
not limited to, the sale and servicing of policies issued under
the agreement by the insurance agent of the authorized insurer
producing the business, the reporting of information concerning
eligible risks, the payment of premium to the corporation, and
arrangements for the adjustment and payment of hurricane claims
incurred on eligible risks by the claims adjuster and personnel
of the authorized insurer. Entering into a quota sharing
insurance agreement between the corporation and an authorized
insurer is voluntary and at the discretion of the authorized
insurer.

3. May provide that the corporation may employ or otherwise
contract with individuals or other entities to provide
administrative or professional services that may be appropriate
to effectuate the plan. The corporation may borrow funds by
issuing bonds or by incurring other indebtedness, and shall have
other powers reasonably necessary to effectuate the requirements of this subsection, including, without limitation, the power to issue bonds and incur other indebtedness in order to refinance outstanding bonds or other indebtedness. The corporation may seek judicial validation of its bonds or other indebtedness under chapter 75. The corporation may issue bonds or incur other indebtedness, or have bonds issued on its behalf by a unit of local government pursuant to subparagraph (q)2. in the absence of a hurricane or other weather-related event, upon a determination by the corporation, subject to approval by the office, that such action would enable it to efficiently meet the financial obligations of the corporation and that such financings are reasonably necessary to effectuate the requirements of this subsection. The corporation may take all actions needed to facilitate tax-free status for such bonds or indebtedness, including formation of trusts or other affiliated entities. The corporation may pledge assessments, projected recoveries from the Florida Hurricane Catastrophe Fund, other reinsurance recoverables, policyholder surcharges and other surcharges, and other funds available to the corporation as security for bonds or other indebtedness. In recognition of s. 10, Art. I of the State Constitution, prohibiting the impairment of obligations of contracts, it is the intent of the Legislature that no action be taken whose purpose is to impair any bond indenture or financing agreement or any revenue source committed by contract to such bond or other indebtedness.

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

a. The Governor, the Chief Financial Officer, the President
of the Senate, and the Speaker of the House of Representatives
shall each appoint two members of the board. At least one of the
two members appointed by each appointing officer must have
demonstrated expertise in insurance and be deemed to be within
the scope of the exemption provided in s. 112.313(7)(b). The
Chief Financial Officer shall designate one of the appointees as
chair. All board members serve at the pleasure of the appointing
officer. All members of the board are subject to removal at will
by the officers who appointed them. All board members, including
the chair, must be appointed to serve for 3-year terms beginning
annually on a date designated by the plan. However, for the
first term beginning on or after July 1, 2009, each appointing
officer shall appoint one member of the board for a 2-year term
and one member for a 3-year term. A board vacancy shall be
filled for the unexpired term by the appointing officer. The
Chief Financial Officer shall appoint a technical advisory group
to provide information and advice to the board in connection
with the board’s duties under this subsection. The executive
director and senior managers of the corporation shall be engaged
by the board and serve at the pleasure of the board. Any
executive director appointed on or after July 1, 2006, is
subject to confirmation by the Senate. The executive director is
b. The board shall create a Market Accountability Advisory Committee to assist the corporation in developing awareness of its rates and its customer and agent service levels in relationship to the voluntary market insurers writing similar coverage.

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

(II) The committee shall report to the corporation at each board meeting on insurance market issues which may include rates and rate competition with the voluntary market; service, including policy issuance, claims processing, and general responsiveness to policyholders, applicants, and agents; and matters relating to depopulation.
5. Must provide a procedure for determining the eligibility of a risk for coverage, as follows:
   a. Subject to s. 627.3517, with respect to personal lines residential risks, if the risk is offered coverage from an authorized insurer at the insurer’s approved rate under a standard policy including wind coverage or, if consistent with the insurer’s underwriting rules as filed with the office, a basic policy including wind coverage, for a new application to the corporation for coverage, the risk is not eligible for any policy issued by the corporation unless the premium for coverage from the authorized insurer is more than 20% percent greater than the premium for comparable coverage from the corporation. Whenever an offer of coverage for a personal lines residential risk is received for a policyholder of the corporation at renewal from an authorized insurer, if the offer is equal to or less than the corporation’s renewal premium for comparable coverage, the risk is not eligible for coverage with the corporation. If the risk is not able to obtain such offer, the risk is eligible for a standard policy including wind coverage or a basic policy including wind coverage issued by the corporation; however, if the risk could not be insured under a standard policy including wind coverage regardless of market conditions, the risk is eligible for a basic policy including wind coverage unless rejected under subparagraph 8. However, a policyholder removed from the corporation through an assumption agreement remains eligible for coverage from the corporation until the end of the assumption period. The corporation shall determine the type of policy to be provided on the basis of objective standards specified in the underwriting manual and...
based on generally accepted underwriting practices.

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

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

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

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

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

(A) Pay to the producing agent of record, for the first year, an amount that is the greater of the insurer’s usual and
(B) Offer to allow the producing agent of record to continue servicing the policy for at least 1 year and offer to pay the agent the greater of the insurer’s or the corporation’s usual and customary commission for the type of policy written.

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

b. With respect to commercial lines residential risks, for a new application to the corporation for coverage, if the risk is offered coverage under a policy including wind coverage from an authorized insurer at its approved rate, the risk is not eligible for a policy issued by the corporation unless the premium for coverage from the authorized insurer is more than 15 percent greater than the premium for comparable coverage from the corporation. Whenever an offer of coverage for a commercial lines residential risk is received for a policyholder of the corporation at renewal from an authorized insurer, if the offer is equal to or less than the corporation’s renewal premium for comparable coverage, the risk is not eligible for coverage with the corporation. If the risk is not able to obtain any such offer, the risk is eligible for a policy including wind coverage issued by the corporation. However, a policyholder removed from the corporation through an assumption agreement remains eligible for coverage from the corporation until the end of the assumption period.
(I) If the risk accepts an offer of coverage through the market assistance plan or through a mechanism established by the corporation other than a plan established by s. 627.3518, before a policy is issued to the risk by the corporation or during the first 30 days of coverage by the corporation, and the producing agent who submitted the application to the plan or the corporation is not currently appointed by the insurer, the insurer shall:

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

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

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

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

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

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

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

c. For purposes of determining comparable coverage under sub-subparagraphs a. and b., the comparison must be based on those forms and coverages that are reasonably comparable. The corporation may rely on a determination of comparable coverage and premium made by the producing agent who submits the application to the corporation, made in the agent’s capacity as the corporation’s agent. A comparison may be made solely of the premium with respect to the main building or structure only on the following basis: the same coverage A or other building limits; the same percentage hurricane deductible that applies on an annual basis or that applies to each hurricane for commercial residential property; the same percentage of ordinance and law coverage, if the same limit is offered by both the corporation and the authorized insurer; the same mitigation credits, to the extent the same types of credits are offered both by the corporation and the authorized insurer; the same method for loss payment, such as replacement cost or actual cash value, if the same method is offered both by the corporation and the authorized insurer in accordance with underwriting rules; and
any other form or coverage that is reasonably comparable as
determined by the board. If an application is submitted to the
corporation for wind-only coverage in the coastal account, the
premium for the corporation’s wind-only policy plus the premium
for the ex-wind policy that is offered by an authorized insurer
to the applicant must be compared to the premium for multiperil
coverage offered by an authorized insurer, subject to the
standards for comparison specified in this subparagraph. If the
corporation or the applicant requests from the authorized
insurer a breakdown of the premium of the offer by types of
coverage so that a comparison may be made by the corporation or
its agent and the authorized insurer refuses or is unable to
provide such information, the corporation may treat the offer as
not being an offer of coverage from an authorized insurer at the
insurer’s approved rate.

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

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

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

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

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

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

9. Must provide that the corporation make its best efforts to procure catastrophe reinsurance at reasonable rates, to cover its projected 100-year probable maximum loss as determined by the board of governors. If catastrophe reinsurance is not available at reasonable rates, the corporation need not purchase it, but the corporation shall include the costs of reinsurance to cover its projected 100-year probable maximum loss in its rate calculations even if it does not purchase catastrophe reinsurance.

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

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

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

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

14. Must provide that the corporation appoint as its licensed agents only those agents who throughout such appointments also hold an appointment as defined in s. 626.015 by an insurer who is authorized to write and is actually writing or renewing personal lines residential property coverage, commercial residential property coverage, or commercial nonresidential property coverage within the state.

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

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

17. Must provide coverage for manufactured or mobile home dwellings. Such coverage must also include the following attached structures:
650 a. Screened enclosures that are aluminum framed or screened enclosures that are not covered by the same or substantially the same materials as those of the primary dwelling;

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

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

653 The corporation shall make available a policy for mobile homes or manufactured homes for a minimum insured value of at least $3,000.

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

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

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

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

ACKNOWLEDGMENT OF POTENTIAL SURCHARGE AND ASSESSMENT LIABILITY:

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

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

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

4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE STATE OF FLORIDA.
a. The corporation shall maintain, in electronic format or otherwise, a copy of the applicant’s signed acknowledgment and provide a copy of the statement to the policyholder as part of the first renewal after the effective date of this subparagraph.

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

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

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

3. After the public hurricane loss-projection model under s. 627.06281 has been found to be accurate and reliable by the Florida Commission on Hurricane Loss Projection Methodology, the model shall be considered when establishing the windstorm portion of the corporation’s rates. The corporation may use the public model results in combination with the results of private
models to calculate rates for the windstorm portion of the
corporation’s rates. This subparagraph does not require or allow
the corporation to adopt rates lower than the rates otherwise
required or allowed by this paragraph.

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

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

5.6. Beginning on or after January 1, 2010, and
Notwithstanding the board’s recommended rates and the office’s
final order regarding the corporation’s filed rates under
subparagraph 1., the corporation shall annually implement a rate
increase which, except for sinkhole coverage, does not exceed
the following 10 percent
for any single policy issued by the
corporation, excluding coverage changes and surcharges:

a. Eleven percent for 2022.

b. Twelve percent for 2023.
c. Thirteen percent for 2024.

d. Fourteen percent for 2025.

e. Fifteen percent for 2026 and all subsequent years.

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

7.8. The corporation’s implementation of rates as prescribed in subparagraph 5.6. shall cease for any line of business written by the corporation upon the corporation’s implementation of actuarially sound rates. Thereafter, the corporation shall annually make a recommended actuarially sound rate filing for each commercial and personal line of business the corporation writes.

(jj) The corporation’s budget allocations for the compensation of all corporation employees and any proposed raise for an individual employee exceeding 10 percent of that employee’s current salary must be approved by the board of governors. The corporation must have an overall employee compensation plan approved by the board of governors.

Section 8. Subsection (5) of section 627.3518, Florida Statutes, is amended to read:

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

(5) Notwithstanding s. 627.3517, any applicant for new coverage from the corporation is not eligible for coverage from the corporation if provided an offer of coverage from an authorized insurer through the program at a premium that is at
or below the eligibility threshold established in s. 627.351(6)(c)5.a. Whenever an offer of coverage for a personal lines risk is received for a policyholder of the corporation at renewal from an authorized insurer through the program, if the offer is equal to or less than the corporation’s renewal premium for comparable coverage, the risk is not eligible for coverage with the corporation. In the event an offer of coverage for a new applicant is received from an authorized insurer through the program, and the premium offered exceeds the eligibility threshold contained in s. 627.351(6)(c)5.a., the applicant or insured may elect to accept such coverage, or may elect to accept or continue coverage with the corporation. In the event an offer of coverage for a personal lines risk is received from an authorized insurer at renewal through the program, and the premium offered is more than the corporation’s renewal premium for comparable coverage, the insured may elect to accept such coverage, or may elect to accept or continue coverage with the corporation. Section 627.351(6)(c)5.a.(I) does not apply to an offer of coverage from an authorized insurer obtained through the program. An applicant for coverage from the corporation who was declared ineligible for coverage at renewal by the corporation in the previous 36 months due to an offer of coverage pursuant to this subsection shall be considered a renewal under this section if the corporation determines that the authorized insurer making the offer of coverage pursuant to this subsection continues to insure the applicant and increased the rate on the policy in excess of the increase allowed for the corporation under s. 627.351(6)(n)5. or s. 627.351(6)(n)6.

Section 9. Subsection (1) of section 627.428, Florida
Statutes, is amended to read:

627.428 Attorney fees.—

(1) Upon the rendition of a judgment or decree by any of the courts of this state against an insurer and in favor of any named or omnibus insured or the named beneficiary under a policy or contract executed by the insurer, the trial court or, in the event of an appeal in which the insured or beneficiary prevails, the appellate court shall adjudge or decree against the insurer and in favor of the insured or beneficiary a reasonable sum as fees or compensation for the insured’s or beneficiary’s attorney prosecuting the suit in which the recovery is had. In a suit arising under a residential or commercial property insurance policy not brought by an assignee, the amount of reasonable attorney fees shall be awarded to an insured only as provided s. 57.105 or s. 627.70152, as applicable.

Section 10. Section 627.70132, Florida Statutes, is amended to read:

627.70132 Notice of property insurance windstorm or hurricane claim.—

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

(a) “Reopened claim” means a claim that an insurer has previously closed, but that has been reopened upon an insured’s request for additional costs for loss or damage previously disclosed to the insurer.

(b) “Supplemental claim” means a claim for additional loss or damage from the same peril which the insurer has previously adjusted or for which costs have been incurred while completing repairs or replacement pursuant to an open claim for which timely notice was previously provided to the insurer.
(2) A claim or reopened claim, but not a supplemental claim, or reopened claim under an insurance policy that provides property insurance, as defined in s. 624.604, including a property insurance policy issued by an eligible surplus lines insurer, for loss or damage caused by any the peril of windstorm or hurricane is barred unless notice of the claim, supplemental claim, or reopened claim was given to the insurer in accordance with the terms of the policy within 2 3 years after the date of loss hurricane first made landfall or the windstorm caused the covered damage. A supplemental claim is barred unless notice of the supplemental claim was given to the insurer in accordance with the terms of the policy within 3 years after the date of loss.

(3) For claims resulting from hurricanes, tornadoes, windstorms, severe rain, or other weather-related events, the date of loss is the date that the hurricane made landfall or the tornado, windstorm, severe rain, or other weather-related event is verified by the National Oceanic and Atmospheric Administration. For purposes of this section, the term “supplemental claim” or “reopened claim” means any additional claim for recovery from the insurer for losses from the same hurricane or windstorm which the insurer has previously adjusted pursuant to the initial claim.

(4) This section does not affect any applicable limitation on civil actions provided in s. 95.11 for claims, supplemental claims, or reopened claims timely filed under this section.

Section 11. Paragraph (e) of subsection (9) of section 627.7015, Florida Statutes, is amended to read:

627.7015 Alternative procedure for resolution of disputed
property insurance claims.—

(9) For purposes of this section, the term “claim” refers to any dispute between an insurer and a policyholder relating to a material issue of fact other than a dispute:

(a) With respect to which the insurer has a reasonable basis to suspect fraud;

(b) When, based on agreed-upon facts as to the cause of loss, there is no coverage under the policy;

(c) With respect to which the insurer has a reasonable basis to believe that the policyholder has intentionally made a material misrepresentation of fact which is relevant to the claim, and the entire request for payment of a loss has been denied on the basis of the material misrepresentation;

(d) With respect to which the amount in controversy is less than $500, unless the parties agree to mediate a dispute involving a lesser amount; or

(e) With respect to a windstorm or hurricane loss that does not comply with s. 627.70132.

Section 12. Section 627.70152, Florida Statutes, is created to read:

627.70152 Suits arising under a property insurance policy.—

(1) APPLICATION.—This section applies exclusively to all suits not brought by an assignee arising under a residential or commercial property insurance policy, including a residential or commercial property insurance policy issued by an eligible surplus lines insurer.

(2) DEFINITIONS.—As used in this section, the term:

(a) “Amount obtained” means damages recovered, if any, but the term does not include any amount awarded for attorney fees,
(b) “Claimant” means an insured who is filing suit under a residential or commercial property insurance policy.

(c) “Disputed amount” means the difference between the claimant’s presuit settlement demand, not including attorney fees and costs listed in the demand, and the insurer’s presuit settlement offer, not including attorney fees and costs, if part of the offer.

(d) “Presuit settlement demand” means the demand made by the claimant in the written notice of intent to initiate litigation as required by paragraph (3)(e). The demand must include the amount of reasonable and necessary attorney fees and costs incurred by the claimant, to be calculated by multiplying the number of hours actually worked on the claim by the claimant’s attorney as of the date of the notice by a reasonable hourly rate.

(e) “Presuit settlement offer” means the offer made by the insurer in its written response to the notice as required by subsection (3).

(3) NOTICE.—

(a) As a condition precedent to filing a suit under a property insurance policy, a claimant must provide the department with written notice of intent to initiate litigation on a form provided by the department. Such notice must be given at least 10 business days before filing suit under the policy, but may not be given before the insurer has made a determination of coverage under s. 627.70131. Notice to the insurer must be provided by the department to the e-mail address designated by the insurer under s. 624.422. The notice must state with
specify all of the following information:

1. That the notice is provided pursuant to this section.
2. The alleged acts or omissions of the insurer giving rise to the suit, which may include a denial of coverage.
3. If provided by an attorney or other representative, that a copy of the notice was provided to the claimant.
4. If the notice is provided following a denial of coverage, an estimate of damages, if known.
5. If the notice is provided following acts or omissions by the insurer other than denial of coverage, both of the following:
   a. The presuit settlement demand, which must itemize the damages, attorney fees, and costs.
   b. The disputed amount.

Documentation to support the information provided in this paragraph may be provided along with the notice to the insurer.

(b) A claimant must serve a notice of intent to initiate litigation within the time limits provided in s. 95.11. However, the notice is not required if the suit is a counterclaim.

Service of a notice tolls the time limits provided in s. 95.11 for 10 business days if such time limits will expire before the end of the 10-day notice period.

(4) INSURER DUTIES.—An insurer must have a procedure for the prompt investigation, review, and evaluation of the dispute stated in the notice and must investigate each claim contained in the notice in accordance with the Florida Insurance Code. An insurer must respond in writing within 10 business days after receiving the notice specified in subsection (3). The insurer
must provide the response to the claimant by e-mail if the insured has designated an e-mail address in the notice.

(a) If an insurer is responding to a notice served on the insurer following a denial of coverage by the insurer, the insurer must respond by:

1. Accepting coverage;
2. Continuing to deny coverage; or
3. Asserting the right to reinspect the damaged property.

If the insurer responds by asserting the right to reinspect the damaged property, it has 14 business days after the response asserting that right to reinspect the property and accept or continue to deny coverage. The time limits provided in s. 95.11 are tolled during the reinspection period if such time limits expire before the end of the reinspection period. If the insurer continues to deny coverage, the claimant may file suit without providing additional notice to the insurer.

(b) If an insurer is responding to a notice provided to the insurer alleging an act or omission by the insurer other than a denial of coverage, the insurer must respond by making a settlement offer or requiring the claimant to participate in appraisal or another method of alternative dispute resolution. The time limits provided in s. 95.11 are tolled as long as appraisal or other alternative dispute resolution is ongoing if such time limits expire during the appraisal process or dispute resolution process. If the appraisal or alternative dispute resolution has not been concluded within 90 days after the expiration of the 10-day notice of intent to initiate litigation specified in subsection (3), the claimant or claimant’s attorney may immediately file suit without providing the insurer
(5) DISMISSAL OF SUIT.—A court must dismiss without prejudice any claimant’s suit relating to a claim for which a notice of intent to initiate litigation was not given as required by this section or if such suit is commenced before the expiration of any time period provided under subsection (4), as applicable.

(6) ADMISSION OF NOTICE AND RESPONSE.—The notice provided pursuant to subsection (3) and, if applicable, the documentation to support the information provided in the notice:

(a) Are admissible as evidence only in a proceeding regarding attorney fees.

(b) Do not limit the evidence of attorney fees or costs, damages, or loss which may be offered at trial.

(c) Do not relieve any obligation that an insured or assignee has to give notice under any other provision of law.

(7) TOLLING.—If a claim is not resolved during the presuit notice process and if the time limits provided in s. 95.11 expire in the 30 days following the conclusion of the presuit notice process, such time limits are tolled for 30 days.

(8) ATTORNEY FEES.—

(a) In a suit arising under a residential or commercial property insurance policy not brought by an assignee, the amount of reasonable attorney fees and costs under s. 626.9373(1) or s. 627.428(1) shall be calculated and awarded as follows:

1. If the difference between the amount obtained by the claimant and the presuit settlement offer, excluding reasonable attorney fees and costs, is less than 20 percent of the disputed amount, each party pays its own attorney fees and costs and a
claimant may not be awarded attorney fees under s. 626.9373(1) or s. 627.428(1).

2. If the difference between the amount obtained by the claimant and the presuit settlement offer, excluding reasonable attorney fees and costs, is at least 20 percent but less than 50 percent of the disputed amount, the insurer pays the claimant’s attorney fees and costs under s. 626.9373(1) or s. 627.428(1) equal to the percentage of the disputed amount obtained times the total attorney fees and costs.

3. If the difference between the amount obtained by the claimant and the presuit settlement offer, excluding reasonable attorney fees and costs, is at least 50 percent of the disputed amount, the insurer pays the claimant’s full attorney fees and costs under s. 626.9373(1) or s. 627.428(1).

(b) In a suit arising under a residential or commercial property insurance policy not brought by an assignee, if a court dismisses a claimant’s suit pursuant to subsection (5), the court may not award to the claimant any incurred attorney fees for services rendered before the dismissal of the suit.

Section 13. Section 627.70153, Florida Statutes, is created to read:

627.70153 Consolidation of residential property insurance actions.—Each party that is aware of ongoing multiple actions involving coverage provided under the same residential property insurance policy for the same property with the same owners must provide written notice to the court of the multiple actions. Upon notification of any party, the court may order that the actions be consolidated and transferred to the court having jurisdiction based on the total amount in controversy of all
consolidated claims. If multiple cases are pending in circuit courts, the cases may be consolidated based on the date on which the first case was filed.

And the title is amended as follows:

Delete lines 1227 - 1319

and insert:

is not included; amending s. 624.424, F.S.; requiring property insurers, effective a certain date, to include certain data regarding closed claims in their annual reports to the Office of Insurance Regulation; requiring specified insurers to provide the office with certain information under certain circumstances; requiring the office to consider certain costs in determining whether payments made by an insurer to an affiliate are fair and reasonable; amending s. 626.7451, F.S.; requiring managing general agents to enter into specified contracts with insurers even when the managing general agents control, or are controlled by, the insurers; amending s. 626.7452, F.S.; providing that a managing general agent may be examined as if it were the insurer even if the managing general agent solely represents a single domestic insurer; amending s. 626.854, F.S.; prohibiting certain acts by specified licensed contractors and their subcontractors; providing construction; prohibiting certain acts by a public adjuster, public adjuster apprentice, and certain
other persons; providing that certain acts constitute unlicensed practice of public adjusting; providing penalties; amending s. 626.9373, F.S.; providing for the award of reasonable attorney fees as provided by specified provisions of law under certain circumstances; amending s. 627.351, F.S.; revising a procedure that the plan of operation of Citizens Property Insurance Corporation must provide; requiring the corporation to include the costs of catastrophe reinsurance to its projected 100-year probable maximum loss in its rate calculations even if the corporation does not purchase such reinsurance; deleting obsolete language relating to the corporation’s rate filings; requiring the corporation to annually implement a rate increase that does not exceed a certain percent for specified years; requiring the corporation’s budget allocations for salaries for the corporation’s employees, all employee raises exceeding 10 percent, and an employee compensation plan for the corporation to be approved by the corporation’s board of governors; amending s. 627.3518, F.S.; conforming a cross-reference; amending s. 627.428, F.S.; providing for the award of reasonable attorney fees as provided by specified provisions of law under certain circumstances; amending s. 627.70132, F.S.; revising the definitions of the terms “reopened claim” and “supplemental claim” to include all perils; providing that claims and reopened claims, but not supplemental claims, under certain property insurance policies for
loss or damage caused by perils are barred unless notice is given within a specified timeframe; revising the timeframe for providing notices of property insurance claims; providing that supplemental claims are barred under certain circumstances; providing construction; amending s. 627.7015, F.S.; conforming a provision to changes made by the act; creating s. 627.70152, F.S.; providing applicability; providing definitions; requiring a claimant to provide written notice to the department before a suit is filed under an insurance policy; requiring certain information to be included in the notice; requiring a claimant to serve notice within specified time limits; requiring an insurer to provide a response to the notice within a specified timeframe; providing for tolling of time if appropriate; requiring an insurer to have a procedure for the prompt investigation, review, and evaluation of a dispute stated in the notice and to investigate each claim in the notice in accordance with the Florida Insurance Code; requiring an insurer to provide a response to the notice within a specified timeframe; requiring an insurer to provide a response in a certain manner; requiring a court to dismiss without prejudice a claimant’s suit under certain circumstances; providing that the notice and documentation are admissible as evidence only in specified proceedings; providing construction; providing that time limits are tolled under certain circumstances; providing calculations and awards of
attorney fees and costs under certain circumstances; prohibiting a court from awarding attorney fees to a claimant under certain circumstances; creating s. 627.70153, F.S.; requiring parties that are aware of certain residential property insurance claims to notify the court of multiple proceedings; authorizing the court to consolidate certain residential property insurance claims upon notification of any party; amending s.