

# ACTION ITEM

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Depopulation Committee Meeting, September 27, 2016  
Board of Governors Meeting, September 28, 2016

<b>CONTRACT ID:</b>	<b>Depopulation Plan of Operation</b>
<b>BUDGETED ITEM</b>	N/A
<b>CONTRACT AMOUNT</b>	N/A
<b>PURPOSE / SCOPE</b>	<p>The revised Plan of Operation was prepared to address the following matters:</p> <ul style="list-style-type: none"><li>• Implement changes to Section 627.351, a Florida Statute, as result of the adoption of HB 931;</li><li>• Resolve incongruities between the existing plans, the standard consent order issued by the Office of Insurance Regulation, and the existing version of the standard assumption agreement;</li><li>• Permit needed revisions to operational procedures critical to the enhanced functionality desired by key stakeholders;</li><li>• Provide greater detail regarding the responsibilities of Depopulation participants;</li><li>• Clarify applicability of depopulation requirements;</li><li>• Consolidate separate personal lines and commercial lines plans into a single, comprehensive document;</li></ul>
<b>CONTRACT TERM(S)</b>	Citizens Depopulation Plan of Operation to be implemented January 1, 2017 after securing Board of Governors approval and obtaining Office of Insurance Regulation review and approval.
<b>PROCUREMENT METHOD</b>	N/A
<b>RECOMMENDATION</b>	<p>Citizens staff recommends that the Citizens Board of Governors:</p> <ul style="list-style-type: none"><li>A. Approve the revised Plan of Operations and</li><li>B. Authorize staff to take any appropriate or necessary action consistent with the Action Item.</li></ul>
<b>CONTACTS</b>	Steve Bitar, Chief of Underwriting and Agency Services



**CITIZENS PROPERTY INSURANCE CORPORATION  
PERSONAL RESIDENTIAL AND COMMERCIAL LINES  
NON-BONUS DEPOPULATION PLAN**

**I. PURPOSE**

A. Pursuant to Section 627.351(6)(q)3., Florida Statutes, Citizens is required to adopt one or more programs, subject to the approval of the Office of Insurance Regulation (Office) for the reduction of both new and renewal writings in the corporation. Citizens may consider any prudent and not unfairly discriminatory approach to reducing Citizens' writings.

B. Pursuant to Section 627.351(6)(ii), Florida Statutes, Citizens shall revise any program previously adopted pursuant to Section 627.351(6)(q)3.a., Florida Statutes, for personal lines residential policies to maximize policyholder options and encourage increased participation by insurers and agents.

C. This Plan of Depopulation (Plan) sets forth the program required by both Sections 627.31(6)(q)3. and Section 627.351(6)(ii), Florida Statutes.

**II. EFFECTIVE DATE**

A. Once effective, this Plan will replace and supersede all previous depopulation plans.

B. This Plan will be effective upon approval by order of the Office.

**III. DEFINITIONS**

**“Assumed Policy”** refers to any policy that has been assumed, removed, or taken-out from Citizens pursuant to this Plan by an Insurer.

**“Assumed Premium”** refers to unearned premium on the Assumed Policies less all taxes, fees, or surcharges invoiced for collection on such policies as determined by Citizens.

**“Assumption”** refers to any take-out or removal of policies from Citizens by an Insurer in accordance with this Plan.

**“Assumption Agreement”** refers to an agreement between an Insurer and Citizens which sets forth the mutual obligations, consistent with this Plan and all applicable laws, of Citizens and the Insurer regarding policies to be assumed.

**“Assumption Date”** refers to the date on which policies are to be assumed by an Insurer.

**“Assumption Offer”** refers to an Insurer's offer to assume the coverage and liabilities of a policyholder's policy as articulated in the Policyholder Notice and as set forth in this Plan during a given Depopulation Cycle.

**“Assumption Period”** refers to the period from the Assumption Date of an Assumed Policy to the date upon which the underlying Citizens policy expires.

**“Assumption Term”** refers to the term during which an Insurer retains obligations relating to Assumed Policies. Unless otherwise specified by the Office or the terms of an Assumption Agreement, the Assumption Term is three years from the Assumption Date, for all Assumed Policies.

**“Commercial Lines Selection Process”** refers to a process for the selection and assumption of commercial lines policies that may differ from the process for the selection and assumption of personal lines policies.

**“Coverage Worksheet”** refers to a worksheet that accompanies a Policyholder Notice and provides information regarding the coverage offered by Citizens or the coverage offered by an Insurer making an Assumption Offer, which may be used by the policyholder to compare such coverages. Coverage worksheets will be provided on all personal lines policies for which Assumption Offers are extended.

**“Depopulation Cycle”** refers to the process for selecting and removing policies from Citizens in accordance with this Plan, including the relevant dates pertaining thereto, starting with the Office Approval and concluding with the end of the Assumption Period of all Assumed Policies.

**“Insurer”** refers to any insurer holding a certificate of authority issued by the Office and seeking to assume policies in accordance with this Plan.

**“Insurer Selection List”** refers to the list of policies provided by the Insurer to Citizens reflecting those policies that the Insurer wishes to assume.

**“Office Approval”** refers to an order or directive of the Office or other agency action authorizing an Insurer to select a specified number and type of policies for assumption from Citizens.

**“Policyholder Notice”** refers to a written notice from Citizens to a policyholder regarding all Insurers requesting to assume the policy and regarding the policyholder’s option to accept an Assumption Offer or to reject any Assumption Offers and remain with Citizens.

**“Returned Policies”** refers to policies that are returned to Citizens after the Assumption Date by the Insurer in accordance with this Plan.

#### **IV. DEPOPULATION CYCLES**

A. In accordance with Section 627.351(6)(ii), Florida Statutes (2016), Citizens will publish each Depopulation Cycle on its website no less than three months prior to the beginning of such Depopulation Cycle.

B. Prior to being allowed to extend any Assumption Offers in a Depopulation Cycle, an Insurer must obtain Office Approval authorizing the assumption of policies for the specified Depopulation Cycle.

C. Each Depopulation Cycle published by Citizens must identify all of the critical due dates for an Insurer to participate in the Depopulation Cycle, including the due date for obtaining Office Approval, the due date for submitting the Insurer Selection List to Citizens, the due date upon which the Insurer must provide a description of coverage and the estimated premium, the date upon which Policyholder Notices will be sent, and the Assumption Date.

D. The Insurer Selection List must include a description of the coverage offered and an estimated premium and must be submitted to Citizens in a form and manner that Citizens will prescribe.

## **V. ASSUMPTION AGREEMENTS**

A. Prior to assuming any policies from Citizens, an Insurer must enter into an Assumption Agreement which will pertain to all Assumptions that occur during the calendar year during which the Assumption Agreement is entered into. An Insurer must enter into an Assumption Agreement each calendar year it assumes policies from Citizens.

B. Each time an Insurer assumes policies in accordance with this Plan, the obligations of the Assumption Agreement regarding such Assumed Policies will last for the duration of the Assumption Term.

C. Each time an Insurer assumes policies under an Assumption Agreement, an exhibit will be added to the Assumption Agreement identifying the Assumption Date of such policies, the Assumption Term, and a general description of the policies assumed.

D. The Assumption Agreement may incorporate this Plan and any order(s) of the Office.

E. The Assumption Agreement may include a minimum number of policies or a minimum amount of exposure that the Insurer must select for Assumption in any given Depopulation Cycle or in multiple Depopulation Cycles during the life of the Assumption Agreement.

## **VI. POLICYHOLDER NOTICES AND POLICYHOLDER CHOICE FOR PERSONAL LINES RESIDENTIAL POLICIES**

A. Citizens will maintain and make available to the agent of record, for any personal lines residential policyholder whose policy has been selected by one or more Insurers, a list of all Insurers making Assumption Offers during a Depopulation Cycle. The list will include a description of the coverage offered and the estimated premium for each request to assume the policy.

B. For any personal lines residential policyholder whose policy has been selected by one or more Insurers, Citizens will provide the Policyholder Notice so that it is received no later than 30 days prior to the Assumption Date. Section 627.351(6)(ii)3.a.-c., Florida Statutes (2016), requires that the following be provided:

1. The amount of the estimated premium;
2. A description of the coverage;
3. A comparison of the estimated premium and coverage offered by the Insurer to the estimated premium and coverage provided by Citizens.

In fulfilling its obligations per Section 627.351(6)(ii)3.c., Florida Statutes (2016), Citizens will, with each Policyholder Notice sent pursuant to this section, provide Coverage Worksheets. The Coverage Worksheets may be used to compare the coverage offered by the Insurer to the coverage offered by Citizens. The information relating to the coverage offered by the Insurer will be provided by that Insurer. The Insurer will be responsible for ensuring that all of the information, relating to the coverage it offers, is accurate.

C. A personal lines residential policyholder whose policy has been selected by one or more carriers will receive only one Policyholder Notice per Depopulation Cycle.

D. The policyholder may elect coverage from among any of the Assumption Offers provided in the Policyholder Notice by selecting one of the Assumption Offers and advising Citizens of such selection in the form and manner set forth by Citizens in the Policyholder Notice. If the policyholder selects an Assumption Offer, the policyholder's policy will be scheduled to be assumed by the Insurer making that Assumption Offer on the Assumption Date.

E. Additionally, at any time prior to the Assumption Date, if the policyholder does not select from among the Assumption Offers, the policyholder may elect to remain with Citizens by advising Citizens of such election in a manner set forth in the Policyholder Notice.

F. If the policyholder does not make a selection from among the Assumption Offers set forth in the Policyholder Notice, and does not elect to remain with Citizens in the manner set forth in the Policyholder Notice, the policyholder's policy may be assumed by one of the Insurers making an Assumption Offer as set forth in the Policyholder Notice.

G. A policyholder who wishes to remain with Citizens must elect to remain with Citizens each time Assumption Offers are extended to the policyholder. The policyholder may not provide a standing election to remain with Citizens through multiple Depopulation Cycles.

## **VII. COMMERCIAL LINES SELECTION PROCESS**

- A. If approved by the Office, an Insurer may select commercial lines policies for Assumption.
- B. Citizens may utilize one of two options for the Commercial Lines Selection Process:
  1. The Commercial Lines Selection Process may be in the same form and manner as the process for selection of personal lines as described in Section VI, or

2. Alternatively the Commercial Lines Selection Process may be as follows:

a. If multiple Insurers have selected a commercial lines policy for Assumption in any given Depopulation Cycle, Citizens will determine which Insurer may make an Assumption Offer based on criteria established by Citizens.

b. An Insurer which is allowed to make an Assumption Offer to commercial policyholders will be responsible for providing, at the Insurer's expense, notice at least 30 days prior to the Assumption Date to each such policyholder. The notice must advise the policyholder of his or her ability to elect to remain with Citizens.

c. Unless otherwise specified by order of the Office, a commercial policyholder who has received a notice reflecting an Assumption Offer on the commercial policy may elect to remain with Citizens by providing, to the Insurer making the Assumption Offer, a notice of such election within the 30 days prior to the Assumption Date or 30 days after the Assumption Date. A commercial policyholder who desires not to accept the Assumption Offer from an Insurer offering to assume the commercial policy shall not be required to make any additional payments or take any action other than to express the desire to remain with Citizens no later than 30 days after the Assumption Date.

d. All notices pursuant hereto must be approved by Citizens and the Office.

e. The Insurer making such Assumption Offers must accumulate all such elections to remain with Citizens and must facilitate the return of any such policies to Citizens that were assumed as of the Assumption Date. Such policies will be regarded as Returned Policies.

C. Except as set forth in Section VII.B.2. (above) relating to the selection of commercial lines policies, all other requirements of this Plan apply equally to the assumption of commercial lines and personal lines policies.

## **VIII. PRODUCING AGENTS AND ASSUMING INSURER**

A. Pursuant to Section 627.351(6)(q)3.a., when Citizens enters into an Assumption Agreement, the producing agent of record of any Citizens policy selected for Assumption is entitled to retain any unearned commission on such policy, if the policy is assumed, and the Insurer shall either:

1. Pay to the producing agent of record of the policy, for the first year, an amount which is the greater of the Insurer's usual and customary commission for the type of policy written or a policy fee equal to the usual and customary commission of Citizens; or
2. Offer to allow the producing agent of record of the policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the Insurer's usual and customary commission for the type of policy written. If the producing

agent is unwilling or unable to accept appointment by the new insurer, the new insurer shall pay the agent in accordance with Section VIII.A.1. (above).

B. Pursuant to Section 627.3517, Florida Statutes, nothing herein shall be construed to impair the right of any Citizens policyholder, upon receipt of an Assumption Offer, to retain his or her current agent, so long as the agent is duly licensed and appointed by Citizens or otherwise authorized to place business with Citizens. This right cannot be canceled, suspended, impeded, abridged, or otherwise compromised by this Plan.

C. If the policyholder's current agent is unable or unwilling to be appointed with an Insurer making an Assumption Offer, the policyholder shall not be disqualified from participation in Citizens because of an offer of coverage in the voluntary market.

D. When entering into the Assumption Agreement and selecting policies for Assumption, the Insurer must certify that any agents of record for policies so sought for Assumption are appointed by the Insurer or have otherwise entered into an agreement that allows the producing agent of record to continue servicing the policy in accordance with Section 627.351(6)(q)3.a., Florida Statutes.

## **IX. LIABILITIES ON ASSUMED POLICIES**

A. Any Assumed Policy is, as of the Assumption Date, direct insurance issued by the insurer and not by Citizens, even if Citizens continues to service the policies.

B. With respect to Assumed Policies, commencing on the Assumption Dates pertaining to such Assumed Policies, the Insurer shall be responsible for all insurer obligations related to the Assumed Policies, except with regard to routine servicing of Assumed Policies during the Assumption Periods thereof, or for claims incurred on Returned Policies as set forth herein.

C. With regard to losses occurring on Assumed Policies on or after the Assumption Date, Citizens shall give notice promptly to the Insurer of any claim or the commencement of any legal proceedings against Citizens with respect to such claim.

D. Citizens shall have the exclusive right to control the defense of any claim for loss occurring prior to the Assumption Date and the Insurer shall have the exclusive right to control the defense of any claim for loss occurring on or after the Assumption Date, other than for Returned Policies.

E. Insurer is solely responsible for the payment and servicing of claims for losses occurring on or after the Assumption Date for all Assumed Policies, except for Returned Policies as set forth herein.

F. For each Assumed Policy, Citizens shall remain liable for all losses occurring prior to the Assumption Date.

## **X. RETURNED POLICIES**

A. It is the obligation of an Insurer assuming policies pursuant to this Plan to thoroughly review and carefully consider the data provided to it prior to making its policy selections. Accordingly,



except as provide in this Plan for commercial policies that are returned to Citizens after the Assumption Date pursuant to Section VII.B.2., after the Assumption Date, but in no instance after the Assumption Period, an Assumed Policy may be returned to Citizens, and become a Returned Policy, only if:

1. There is a condition (or there are conditions) which were unknown to the Insurer as of the Assumption Date that make the continued coverage of the Assumed Policy by the Insurer impossible or otherwise contrary to law or order of the Office;
2. There is, as of the Assumption Date, a mutual mistake between Citizens and the Insurer which, if it had been known, would have rendered the policy ineligible for coverage under the Insurer's underwriting guidelines;
3. An order of the Office necessitates that the policies be returned to Citizens.

B. The occurrence of a claim on or after the Assumption Date is not a basis for returning a policy to Citizens.

C. Citizens is responsible for claims incurred on Returned Policies. Insurer shall immediately notify Citizens of any claims on Returned Policies and immediately communicate all policy and claim information to Citizens. To the extent that Insurer has incurred loss adjustment expenses on claims for Returned Policies, Citizens will reimburse Insurer for such expenses only to the extent and amount that Citizens would have paid for such expenses.

## **XI. FORMS, RATES, AND RENEWALS**

A. Commencing on the Assumption Date of an Assumed Policy:

1. Until the end of the Assumption Period for each Assumed Policy, Citizens will process endorsements and cancellations and provide other routine policy services. However, the Insurer will be responsible for extending an offer of coverage and for the adjustment and payment of claims.
2. The Insurer shall offer and process offers of coverage with respect to Assumed Policies, and shall be solely responsible for all servicing activities as of its first policy term.

B. An Insurer that has assumed policies in accordance with this Plan shall offer coverage to each Assumed Policy, for a minimum of three years from its Assumption Date. All offers of coverage and renewals thereof shall be issued utilizing forms and rates approved by the Office.

C. The coverage provided on Assumed Policies must be substantially equivalent to the coverage provided by Citizens.

D. An Insurer may cancel or non-renew an Assumed Policy for material misstatement, nonpayment of premium, failure to comply, within 90 days of after the date of effectuation of the coverage, with underwriting requirements of the Insurer, substantial change in the risk, or fraud. An Insurer may

not cancel or non-renew an Assumed Policy for exposure management or for any underwriting reason that the Insurer knew or should have known of at the Assumption Date.

## **XII. ASSUMED PREMIUMS**

A. Citizens will direct the release of Assumed Premium relating to Assumed Policies to the Insurer that has assumed such policies within 20 days of the Assumption Date.

B. The Insurer shall return to Citizens all unearned premiums received on such Returned Policies to Citizens in a manner acceptable to Citizens.

C. At recurring times established by Citizens, a true-up of Assumed Premium will be performed. During this true-up, Citizens will review premium transaction activity on Assumed Policies that are in the Assumption Period, as well as Returned Policies. Based on the results of this true-up, Citizens and the Insurer will coordinate making appropriate adjustments to the Assumed Premium resulting from any Assumed Policies that are cancelled or endorsed during the Assumption Period, as well as coordinate the return of any outstanding unearned premiums received on Returned Policies.

D. Within 15 days of the true-up date at which it is determined that Insurer owes Citizens Assumed Premium paid for Assumed Policies, Insurer will pay the determined amount.

## **XIII. NO TAKE-OUT BONUSES ARE APPROVED**

A. No take-out bonuses authorized by Section 627.3511, Florida Statutes or otherwise are approved under this Plan. Any proposal for such bonuses must be pursuant to a separate plan.

The new Plan provides a single document from which the details of Citizens' depopulation program can be understood. These changes are as follows:

- **Statement of Purpose:** This provides a brief statement setting forth the statutory authority for the adoption of the plan.
- **Effective Date:** This sets forth that the plan is effective when approved by the Office.
- **Definitions:** A series of definitions have been drafted to be used throughout the Plan.
- **Depopulation Cycles:** Section 627.351(6)(ii), Florida Statutes, provides that Citizens shall periodically publish a schedule of cycles during which an insurer may identify and notify Citizens of policies that such insurer is interested in taking out. The new section of the Plan sets how and when such cycles will be published and what will be included with such publication.
- **Assumption Agreements:** Consistent with the previous plans, the new Plan requires insurers who wish to take out policies to enter into an assumption agreement with Citizens. However, the following changes have been made:
  - Rather than entering into an agreement every 18 months, an insurer must enter into an agreement for each calendar year that the insurer wishes to assume a policy. The agreement will cover only the assumptions that occur during that calendar year. This will ensure that if there are changes to any facet of the depopulation process at the beginning of a calendar year, those changes will be captured in the annual agreements and applied uniformly to all such assumptions that take place during that year.
  - The Plan clarifies that the insurer's obligations regarding assumed policies last for the "Assumption Term" which is generally three years.
  - Rather than incorporating a minimum exposure or minimum number of policy selections into the Plan directly, such minimums may be incorporated into the assumption agreements. This will allow Citizens to adjust the minimums over time to reflect a changing book of business.
- **Policyholder Notices and Policyholder Choice for Personal Lines Residential Policies:** This section incorporates the changes required per Section 627.351(6)(ii), Florida Statutes.
- **Commercial Lines Selection Process:** This section allows Citizens to utilize a selection process for commercial lines that is the same as that set forth for personal lines, or to maintain the same selection process that has been utilized in the past.
- **Producing Agents and Assuming Insurers:** This section reflects the legal obligations that assuming insurers have toward agents of record for assumed policies. This does not change the current obligations that are found in law, in the consent orders, and in the assumption agreements.
- **Liabilities on Assumed Policies:** This sets forth the insurer's obligations on assumed policies, consistent with the relevant statutes. This does not change the current obligations that are found in law, in the consent orders, and the assumption agreements.

- **Returned Policies:** This section sets forth the conditions under which policies may be returned to Citizens, and sets forth the responsibility for claims on such policies. The responsibilities regarding claims do not change. However, the Plan codifies Citizens position on when policies may be returned (sometimes colloquially referred to as “untagged”).
- **Forms, Rates, and Renewals:** This section sets forth the obligations to offer renewal on assumed policies. It does set forth situations when the insurer may cancel or non-renew a policy, but makes clear that the insurer may not cancel or non-renew for any exposure management or underwriting reason known of the insurer at the Assumption Date. This does not change the current obligations that are found in law, in the consent orders, and in the assumption agreements.
- **Assumed Premiums:** This section details the obligations regarding assumed premiums and true-ups. This does not change the current obligations that are found in law, in the consent orders, and in the assumption agreements, but does provide a greater degree of detail regarding what will be reviewed during a “true-up” of such premium.
- **No Take-Out Bonuses are Approved:** This section makes clear that no take-out bonuses are approved as part of this Plan.

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