



874164

LEGISLATIVE ACTION

Senate

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House

The Committee on Banking and Insurance (Richter) recommended the following:

Senate Amendment

Delete lines 28 - 176
and insert:

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

(a) "Clearinghouse" means the clearinghouse diversion
program created under this section.

(b) "Corporation" means Citizens Property Insurance
Corporation.

(c) "Exclusive agent" means a licensed insurance agent who
has agreed, by contract, to act exclusively for one company or
group of affiliated insurance companies and is disallowed by the



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13 provisions of that contract to directly write for any other
14 unaffiliated insurer, absent express consent from the company or
15 group of affiliated insurance companies.

16 (d) "Independent agent" means a licensed insurance agent
17 not described in paragraph (c).

18 (2) In order to confirm eligibility with the corporation
19 and to enhance the access of new applicants for coverage and the
20 access of existing policyholders of the corporation to offers of
21 coverage from authorized and eligible insurers, the corporation
22 shall establish a clearinghouse to facilitate the diversion of
23 ineligible applicants and existing policyholders from the
24 corporation into the voluntary insurance market.

25 (3) Notwithstanding s. 626.752, the clearinghouse shall
26 have the same rights and responsibilities in carrying out its
27 duties as a licensed general lines agent, but is not required to
28 employ or engage a licensed general lines agent or to maintain
29 an insurance agency license in order to solicit and place
30 insurance coverage. In establishing the clearinghouse, the
31 corporation may:

32 (a) Require all new applications and all policies due for
33 renewal to be submitted to the clearinghouse or a private
34 alternative in order to facilitate obtaining an offer of
35 coverage from an authorized insurer before binding or renewing
36 coverage by the corporation.

37 (b) Employ or otherwise contract with individuals or other
38 entities to provide administrative or professional services in
39 order to carry out the plan within the corporation in accordance
40 with the applicable purchasing requirements under s. 627.351.

41 (c) Enter into a contract with an authorized or eligible



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42 insurer participating in the clearinghouse and accept an
43 appointment by such insurer.

44 (d) Provide funds to operate the clearinghouse, or charge
45 agents and insurers a reasonable fee to offset or partially
46 offset the costs of the clearinghouse on policies that are
47 accepted by the participating insurers. An insurer that
48 participates in the clearinghouse is not required to use the
49 clearinghouse for the renewal of policies initially written
50 through the clearinghouse.

51 (e) Develop an enhanced application for obtaining
52 information that will assist private insurers in determining
53 whether to make an offer of coverage through the clearinghouse.

54 (f) Before approving new applications for coverage by the
55 corporation, require every application to be subject to a 48-
56 hour period that allows an insurer participating in the
57 clearinghouse to select the application for coverage. The
58 insurer may issue a binder on any policy selected for coverage
59 for a period of at least 30 days, but not more than 60 days.

60 (4) An authorized or eligible insurer may participate in
61 the clearinghouse; however, participation is not mandatory. An
62 insurer that makes an offer of coverage to a new applicant or
63 renews a policy for a policyholder through the clearinghouse:

64 (a) Is not required to individually appoint an agent whose
65 customer is underwritten and bound through the clearinghouse.
66 Notwithstanding s. 626.112, an insurer is not required to
67 appoint an agent on a policy underwritten through the
68 clearinghouse if that policy remains with the insurer. An
69 insurer may appoint an agent whose customer is initially
70 underwritten and bound through the clearinghouse. If an insurer



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71 accepts a policy from an agent who is not appointed pursuant to
72 this paragraph and thereafter accepts a policy from such agent,
73 the provisions of s. 626.112 requiring appointment apply to the
74 agent.

75 (b) Must enter into a limited agency agreement with each
76 agent who is not appointed in accordance with paragraph (a) and
77 whose customer is underwritten and bound through the
78 clearinghouse.

79 (c) Must enter into its standard agency agreement with each
80 agent whose customer is underwritten and bound through the
81 clearinghouse if that agent has been appointed by the insurer
82 pursuant to s. 626.112.

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

84 (e) Must participate through their single designated
85 managing general agent or broker; however, the provisions of
86 paragraph (6)(a) regarding ownership, control, and use of the
87 expirations apply.

88 (5)(a) Notwithstanding s. 627.3517, an applicant for new
89 coverage is not eligible for coverage from the corporation if
90 the applicant is offered coverage from an authorized insurer
91 through the clearinghouse at a premium that is at or below the
92 eligibility threshold established under s. 627.351(6)(c)5.a.

93 (b) Notwithstanding any other provisions of law, if a
94 renewing policyholder of the corporation is offered coverage
95 from an authorized insurer for a personal lines or commercial
96 lines risk at a premium that is no more than 15 percent above
97 the corporation's renewal premium for comparable coverage, the
98 risk is not eligible for coverage with the corporation.

99 (c) Notwithstanding s. 626.916(1), if an applicant for new



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100 or renewal coverage from the corporation does not receive an
101 offer of coverage from an authorized insurer, the applicant may
102 choose to accept an offer of coverage from an eligible insurer
103 or its broker under ss. 626.913-626.937. Such offer of coverage
104 from an eligible insurer does not make the risk ineligible for
105 coverage with the corporation.

106 (d) An applicant for new or renewal coverage from the
107 corporation may choose to accept any offer of coverage received
108 through the clearinghouse from an authorized insurer which is
109 greater than 15 percent of the corporation's renewal premium.

110 (e) Section 627.351(6)(c)5.a.(I) and b.(I) does not apply
111 to an offer of coverage from an authorized insurer obtained
112 through the clearinghouse.

113 (6) An independent agent who submits a new application for
114 coverage or who is the agent of record on a renewal policy
115 submitted to the clearinghouse:

116 (a) Must maintain ownership and the exclusive use of
117 expiration, record, or other written or electronic information
118 directly related to such application or renewal written through
119 the corporation or through an insurer participating in the
120 clearinghouse, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and
121 (II)(B). A contract with the corporation or required by the
122 corporation may not amend, modify, interfere with, or limit such
123 rights of ownership. Such expiration, record, or other written
124 or electronic information may be used to review an application
125 or issue a policy or for any other purpose necessary for placing
126 business through the clearinghouse.

127 (b) Is not required to be appointed by an insurer
128 participating in the clearinghouse for policies written solely



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129 through the clearinghouse, notwithstanding s. 626.112.

130 (c) May accept an appointment from an insurer participating
131 in the clearinghouse.

132 (d) Must enter into a standard or limited agency agreement
133 with the insurer, at the insurer's option.

134
135 An applicant who is ineligible for coverage under subsection (5)
136 remains ineligible if the applicant's independent agent is
137 unwilling or unable to enter into a standard or limited agency
138 agreement with an insurer participating in the clearinghouse.

139 (7) An exclusive agent who submits a new application for
140 coverage or who is the agent of record on a renewal policy
141 submitted to the clearinghouse:

142 (a) Must maintain ownership and the exclusive use of
143 expiration, record, or other written or electronic information
144 directly related to such application or renewal written through
145 the corporation or through an insurer participating in the
146 clearinghouse, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and
147 (II)(B). A contract with the corporation or required by the
148 corporation may not amend, modify, interfere with, or limit such
149 rights of ownership. Such expiration, record, or other written
150 or electronic information may be used to review an application
151 or issue a policy or for any other purpose necessary for placing
152 business through the clearinghouse.

153 (b) Is not required to be appointed by an insurer
154 participating in the clearinghouse for policies written solely
155 through the clearinghouse, notwithstanding s. 626.112.

156 (c) Must accept an offer of coverage from an insurer whose
157 limited servicing agreement is approved by that agent's



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158 exclusive insurer as eligible to participate in the
159 clearinghouse with that insurer's exclusive agents.

160 (d) Must enter into a limited servicing agreement with the
161 insurer making an offer of coverage, and may do so only after
162 the exclusive agent's insurer has approved the terms of the
163 agreement. The exclusive agent's insurer must approve a limited
164 service agreement for the clearinghouse if the insurer has
165 approved a service agreement with the agent for other purposes.

166
167 An applicant is ineligible for coverage under subsection (5) if
168 the applicant's exclusive agent is unwilling or unable to enter
169 into a standard or limited agency agreement with a participating
170 insurer making an offer of coverage to that applicant.

171 (8) To promote private market initiatives that provide
172 offers of coverage from authorized and eligible insurers to
173 applicants for coverage by the corporation and to the
174 corporation's policyholders on renewal, the corporation shall
175 publish, by January 1, 2014, reasonable standards for private
176 alternatives to the submission of a risk to the clearinghouse.
177 Notwithstanding s. 626.752, such private alternatives may act in
178 a master agency arrangement that allows agents to be appointed
179 as subagents of a master agency and to use private alternatives
180 for the submission of risks to the clearinghouse. The
181 alternative option allowed under this subsection is an
182 alternative to and not a replacement for the clearinghouse. The
183 clearinghouse or any private entity operating under this
184 subsection may not prohibit insurers that elect to participate
185 from participating in more than one clearinghouse or
186 alternative; however, an insurer participating in the private



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187 entity must also participate in the clearinghouse.

188 (9) Submission of an application to the clearinghouse for
189 coverage by the corporation does not constitute the binding of
190 coverage, and the failure of the clearinghouse to obtain an
191 offer of coverage by an insurer is not considered acceptance of
192 coverage of the risk by the corporation.

193 (10) The clearinghouse does not include commercial
194 residential policies.