

By Senator Richter

23-01409A-13

20131622\_\_

1                                   A bill to be entitled  
2           An act relating to the establishment of a  
3           clearinghouse diversion program within the Citizens  
4           Property Insurance Corporation; creating s. 627.3518,  
5           F.S.; authorizing the creation of a clearinghouse  
6           diversion program within the corporation for  
7           identifying and diverting insurance coverage to  
8           private insurers; providing definitions; providing  
9           requirements and duties of the corporation, insurers,  
10          and agents; providing for an alternative to submitting  
11          risks to the corporation; providing an effective date.  
12

13 Be It Enacted by the Legislature of the State of Florida:  
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15           Section 1. Section 627.3518, Florida Statutes, is created  
16 to read:

17           627.3518 Citizens Property Insurance Corporation  
18 clearinghouse.—The Legislature recognizes that Citizens Property  
19 Insurance Corporation has authority to establish a clearinghouse  
20 as a separate organizational unit within the corporation for the  
21 purpose of determining the eligibility of new and renewal risks  
22 seeking coverage through the corporation and facilitating the  
23 identification and diversion of ineligible applicants and  
24 current policyholders from the corporation into the voluntary  
25 insurance market. The purpose of this section is to augment that  
26 authority by providing a framework for the corporation to  
27 implement such program by July 1, 2013.

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

29           (a) "Clearinghouse" means the clearinghouse diversion

23-01409A-13

20131622

30 program created under this section.

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

33 (c) "Exclusive agent" means any licensed insurance agent  
34 who has, by contract, agreed to act exclusively for one company  
35 or group of affiliated insurance companies, and who is  
36 disallowed by that contract to directly write for any other  
37 unaffiliated insurer absent express consent from the company or  
38 group of affiliated companies.

39 (d) "Independent agent" means a licensed insurance agent  
40 who is not required by contract to act only on behalf of one  
41 company or group of affiliated insurance companies.

42 (2) The clearinghouse shall have all the rights and  
43 responsibilities in carrying out its duties as a licensed  
44 general lines agent, but is not required to employ or engage a  
45 licensed general lines agent or maintain an insurance agency  
46 license in order to solicit and place insurance coverage. In  
47 establishing the clearinghouse the corporation:

48 (a) Shall require all new applications for coverage and all  
49 policies up for renewal to be submitted to the clearinghouse to  
50 facilitate obtaining an offer of coverage from an authorized  
51 insurer before binding or renewing coverage with the  
52 corporation.

53 (b) Shall develop an enhanced application for obtaining  
54 information that will assist private insurers in determining  
55 whether or not to make an offer of coverage through the  
56 clearinghouse.

57 (c) Shall require all new applications for coverage to be  
58 subject to a 48-hour period that allows a private insurer

23-01409A-13

20131622

59 participating in the clearinghouse to select applicants for  
60 coverage before the application is submitted to the corporation  
61 for coverage. The insurer may issue a binder to a selected  
62 applicant for at least 30 days, but not more than 60 days.

63 (d) Notwithstanding s. 626.916(1), if an applicant for new  
64 or renewal coverage from the corporation does not receive an  
65 offer of coverage from admitted insurers, may allow the  
66 applicant to accept an offer from a surplus lines insurer  
67 eligible under ss. 626.913-626.937.

68 (e) Shall provide funds to operate the clearinghouse. The  
69 corporation may charge a reasonable fee as a percentage of an  
70 agent's commission to offset, or partially offset the costs of  
71 the clearinghouse. However, insurers participating in the  
72 clearinghouse are not required to pay a fee or use the  
73 clearinghouse to renew policies initially written through the  
74 clearinghouse.

75 (f) Shall enter into contracts with licensed property  
76 insurance companies operating in this state to participate in  
77 the clearinghouse and accept appointments from voluntary market  
78 insurers.

79 (g) May employ or otherwise contract with individuals or  
80 other entities to provide administrative or professional  
81 services in accordance with purchasing requirements set forth in  
82 the corporation's plan under s. 627.351(6)(c).

83 (3) A licensed insurer may participate in the  
84 clearinghouse. Insurers making offers of coverage to new  
85 applicants or renewing policyholders through the clearinghouse:

86 (a) Are not required to individually appoint an agent whose  
87 customer is bound and underwritten through the clearinghouse for

23-01409A-13

20131622

88 as long as that policy remains with the insurer. Notwithstanding  
89 s. 626.112, an insurer is not required to appoint an agent on a  
90 policy underwritten through the clearinghouse as long as that  
91 policy remains with the insurer. Insurers may appoint an agent  
92 whose customer is initially underwritten and bound through the  
93 clearinghouse. If an insurer accepts a policy from an agent who  
94 is not appointed and thereafter elects to accept a policy from  
95 that agent which was not submitted through the program, the  
96 provisions of s. 626.112 requiring appointment apply to that  
97 agent.

98 (b) Shall enter into a limited agency agreement with each  
99 agent whose customer is underwritten and bound through the  
100 clearinghouse and who is not appointed in accordance with this  
101 subsection.

102 (c) Shall enter into its standard agency agreement with  
103 each agent whose customer is underwritten and bound through the  
104 clearinghouse if that agent has been appointed by the insurer  
105 pursuant to s. 626.112.

106 (d) Must comply with the s. 627.4133(2).

107 (4) Notwithstanding section 627.3157, if an applicant for  
108 new coverage from the corporation is offered coverage from an  
109 admitted insurer through the clearinghouse or through an  
110 alternative option under subsection (7) at a rate that is at or  
111 below the eligibility threshold established in s. 627.351(c)5.,  
112 the risk is not eligible for coverage with the corporation.  
113 Notwithstanding any other provisions of law, if a policyholder  
114 at renewal is provided an offer of coverage from an admitted  
115 insurer through the program or through an alternative option  
116 under subsection (7), and the offer is no more than 15 percent

23-01409A-13

20131622\_\_

117 above the policyholder's premium for comparable coverage through  
118 the corporation, the risk is not eligible for coverage with the  
119 corporation.

120 (5) Independent insurance agents submitting new  
121 applications for coverage or who are the agent of record on a  
122 renewal policy submitted to the clearinghouse:

123 (a) Notwithstanding s. 626.112, are not required to be  
124 appointed by an insurer participating in the clearinghouse for  
125 policies written solely through the clearinghouse.

126 (b) May accept an appointment from an insurer participating  
127 in the clearinghouse.

128 (c) Must enter into a standard or limited agency agreement  
129 with the insurer, at the insurer's option.

130 (d) Must maintain the exclusive use of expirations,  
131 records, or other written or electronic information directly  
132 related to such applications or renewals written through the  
133 corporation or through an insurer participating in the  
134 clearinghouse. Such expirations, records, or other written or  
135 electronic information may be used to review an application,  
136 issue a policy, or for any other purpose necessary for placing  
137 such business through the clearinghouse.

138 (6) Exclusive agents submitting new applications for  
139 coverage or that are the agent of record on a renewal policy  
140 submitted to the program:

141 (a) Notwithstanding s. 626.112, are not required to be  
142 appointed by an insurer participating in the clearinghouse for  
143 policies written solely through the clearinghouse.

144 (b) Must provide the new applicant or renewing policyholder  
145 the opportunity to accept an offer of coverage from an insurer

23-01409A-13

20131622\_\_

146 whose limited servicing agreement is approved by that agent's  
147 exclusive insurer as eligible to participate in the  
148 clearinghouse with that insurer's exclusive agents.

149 (c) Must enter into only a limited servicing agreement with  
150 the insurer making an offer of coverage.

151 (d) Must maintain the exclusive use of expirations,  
152 records, or other written or electronic information directly  
153 related to such applications or renewals written through the  
154 corporation or through an insurer participating in the program,  
155 notwithstanding s. 627.351(6)(c)5.a.(I)(B) and (II)(B). Such  
156 expirations, records, or other written or electronic information  
157 may be used to review an application, issue a policy, or for any  
158 other purpose necessary for placing such business through the  
159 clearinghouse.

160 (7) The corporation may recognize private entities that the  
161 independent agent elects to use as an alternative to submitting  
162 a risk to the clearinghouse. An alternative option allowed under  
163 this subsection shall obtain offers of coverage from authorized  
164 insurers for new applicants seeking coverage from the  
165 corporation and for corporation policyholders on renewal. The  
166 alternative option may not be used as a replacement for the  
167 clearinghouse. Neither the clearinghouse nor a private entity  
168 operating under this subsection may prohibit insurers from  
169 electing to participate in more than one program or alternative,  
170 and an insurer participating in the private entity alternative  
171 must also participate in the clearinghouse.

172 (8) Submission of an application for coverage by the  
173 corporation to the clearinghouse does not constitute the binding  
174 of coverage by the corporation, and failure of the clearinghouse

23-01409A-13

20131622\_\_

175 to obtain an offer of coverage by an insurer is not considered  
176 acceptance of coverage of the risk by the corporation.

177 Section 2. This act shall take effect July 1, 2013.